

OD-3

ORDER SHEET

WPO No.2463 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AMIT GUPTA AND ORS.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 6th September, 2022.

Appearance:

Mr. Arindam Banerjee, Adv.
Mr. Arnab Dutt, Adv.
. . .for the petitioners.

Mr. Alak Kr. Ghosh, Adv.
Ms. Era Ghosh, Adv.
. . .for the KMC.

Mr. Jishnu Chowdhury, Adv.
Mr. Ritoban Sarkar, Adv.
Ms. Madhuja Barman, Adv.
..for Respondent No.6.

Mr. D. Mukherjee, Adv.
Ms. S. Chatterjee, Adv.
..for the State.

The Court:-Affidavit of service filed in Court today is taken on record.

The impugned order dated 27th June, 2022 directing stoppage of ongoing repairing and construction work at 2, Mullick Street, Ward-42, Borough-V, Police Station-Burrabazar, Kolkata-700001 has been passed relying upon a report submitted by Dr. Dipesh Majumdar, Assistant Professor, Construction Engineering Department, Jadavpur University.

The said report has been produced in Court today by the learned advocate representing the Kolkata Municipal Corporation.

On a perusal of the report, it appears that the report is an undated one and the same was allegedly prepared in compliance of the direction passed by this Court on 13th January, 2022 in W.P.O. No.1071 of 2021.

The Court in the order dated 13th January, 2022 disposed of the writ petition by passing certain directions. It appears that the said directions have not been complied with. Accordingly, the parties are directed to take steps strictly in accordance with the directions passed by the Court on 13th January, 2022.

Learned advocate representing the petitioners submits that the repairing work of the said premises is being done as per the permission granted by the Kolkata Municipal Corporation.

The parties are directed to apprise the Kolkata Municipal Corporation with regard to the nature of the repairing work that is being conducted by them.

The directions of the Court being,

(a) the willing occupiers shall be allowed to cause repair in terms of the permission granted by the Corporation by its letter dated 6th December, 2021 under the supervision and guidance of the Empanelled Structural Engineer of the Corporation at their own risks and costs with precautionary measures and without disturbing the neighbours and public in general;

(b) such repair work shall be undertaken upon giving seven days prior notice to the Corporation;

(c) the Corporation authorities may enter into the premises and cause inspection of the same upon receiving the notice of commencement of the repairing works and ensure that the repair is being done as per the permission;

(d) the Head of the Department of Construction Engineering, Jadavpur University shall form a panel of experts, who shall make an inspection of the premises in question in presence of the parties and furnish their report on the condition of the building to the parties as also before the Commissioner, Kolkata Municipal Corporation. Let such inspection be made and report be furnished within a period of three months from date;

(e) the petitioners as also the owners of the premises shall be entitled to respond to the said report prepared by the expert team and file their exception/objection/written version to the same before the Commissioner, Kolkata Municipal Corporation. Thereafter the Commissioner, Kolkata Municipal Corporation shall act and proceed in accordance with law on the basis of the report to be furnished as directed hereinabove,

shall be strictly complied with by the parties.

Impugned communication by the Executive Engineer dated 27th June, 2022 stands set aside.

The writ petition stands disposed of.

Report filed by the learned advocate representing Kolkata Municipal Corporation on health assessment of the existing structure at premises No. 2, Mullick Street, Ward-42, Borough-V, Police Station-Burrabazar, Kolkata-700001 by Dr. Dipesh Majumdar, Assistant Professor, Construction

Engineering Department, Jadavpur University, in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

nm