

OD – 6

ORDER SHEET
WPO/2536/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ANUPAM NOPANY AND ANR.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 15TH SEPTEMBER, 2022

Appearance:
Mr. Shankarsan Sarkar, Adv.
Mr. Atish Ghosh, Adv.
Mr. Tanmoy Sett, Adv.
Ms. Sumana Biswas, Adv.
..for the petitioner

Mr. Biswajit Mukherjee, Adv.
Mr. Fazul Haque, Adv.
..for the KMC

The Court : Affidavit of service filed in Court today be kept with the record.

None appears on behalf of the respondent nos. 6 to 9 despite service.

The matter relates to the multistoried building standing on 5, Clyde Row, Kolkata-700022, Borough IX, Ward No. 75 under the jurisdiction of the Kolkata Municipal Corporation.

According to the petitioners, the respondent nos. 6 to 9 have changed the mode of use of the common areas of the premises in question.

The petitioners made representation before the Kolkata Municipal Corporation in June, 2022 followed by notice demanding justice through the learned Advocate on 28th July, 2022.

The petitioners allege that the said representation has not been considered by the respondents till date.

Learned Advocate representing the Kolkata Municipal Corporation submits that there is a private dispute in between the parties and the Kolkata Municipal Corporation will not be the appropriate authority to settle the issue.

It appears from the submissions made on behalf of the parties and on perusal of the materials on record that the allegation of the petitioner is only restricted to the change of use of the common areas without any permission from the Kolkata Municipal Corporation. A sanctioned plan is annexed to the writ petition. The common areas have been marked therein.

The respondent No. 4, the Executive Engineer (Building Department) Borough-IX, is accordingly directed to consider the representation of the petitioners strictly in accordance with law after giving opportunity of hearing to the petitioners as well as the respondent Nos. 6 to 9 and to pass the reasoned order in the matter.

Steps shall be taken at the earliest but positively within a period of twelve weeks from the date of the communication of this order.

Reasoned order shall be communicated to the parties immediately thereafter.

It is made clear that the aforesaid respondent shall not enter into or decide any private dispute in between the parties and will restrict the consideration only with regard to the change of use of the common areas in the said multistoried building, if any, in accordance with the plan that has been sanctioned by the Kolkata Municipal Corporation.

Learned Advocate appearing for the petitioners is directed to forward copy of the representation dated 20th July, 2022 to the aforesaid respondent at the time of communicating the order of this Court.

Writ petition being WPO No. 2536 of 2022 stands disposed of.

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

(AMRITA SINHA, J.)