

OD-10

ORDER SHEET

WPO No.2625 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KENSINGTON APARTMENT PRIVATE LIMITED
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 23rd September, 2022.

Appearance:
Mr. Sumanta Biswas, Adv.
Mr. Bikash Shaw, Adv.
....for Petitioner.

Mr. Arijit Dey, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mr. Rahul Karmakar, Adv.
Mr. A.P. Agarwalla, Adv.
Mr. Sounak Mukherjee, Adv.
..for Respondent nos.7 to 9.

The Court:- The matter relates to premises no.7, May Fair Road, Ward No.64, Borough-VII, P.S.-Karaya, Kolkata-700019 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges that the private respondents are making unauthorized construction.

Learned advocate representing the private respondents submits that the writ petition will not be maintainable in the Original Side as the cause of action has arisen outside the Original Side jurisdiction of this Court.

Learned advocate for the Kolkata Municipal Corporation has already taken instruction in the matter.

With regard to the objection raised by the private respondent about non-maintainability of the writ petition in the Original Side, this Court is of the opinion that the jurisdiction of the Court is for the purpose of convenience. The writ

petition itself will be maintainable irrespective of the side in which it has been filed.

Learned advocate for the Kolkata Municipal Corporation produces the instruction dated 21st September, 2022 received from the Sub-Assistant Engineer (Civil), Assistant Engineer (Civil) and the Executive Engineer (Civil)/Building Department/Borough-VII which mentions that the department inspected the site and found that the person responsible has constructed three storied R.C.C. structure attached with the existing building at rear portion of the aforesaid premises without obtaining any sanction plan. A stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued. The matter has already been intimated to the Officer-in-Charge, Karaya Police Station.

The matter has been processed under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 and the date of hearing has been fixed on 28th September, 2022.

As it appears that the Kolkata Municipal Corporation has already taken steps to deal with the unauthorized construction, accordingly, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to take necessary steps to deal with the unauthorized construction strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioner as well as the private respondents. Steps shall be taken to conclude the proceeding at the earliest, but positively within a period of twelve weeks from the date of communication of this order. The fate of the proceeding shall be communicated to the parties.

The writ petition stands disposed of.

Instruction given by the Kolkata Municipal Corporation be retained with the records.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(AMRITA SINHA, J.)

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