

OD-1

ORDER SHEET

WPO/3211/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S SKYLINE VANIJYA PRIVATE LIMITED AND ANOTHER
-VS-
THE KOLKATA MUNICIPAL CORPORATION AND OTHERS

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : December 16, 2022.

Appearance:

Mr. Surajit Nath Mitra, Sr. Adv.
Mr. Arindam Banerjee, Adv.
Mr. Saptarshi Datta, Adv.
Ms. Srinjita Ghosh, Adv.
Mr. Pourush Kanti Pal, Adv.
...for the petitioners

Mr. Biswajit Mukherjee, Adv.
Mr. Tanushree Dasgupta, Adv.
...for the KMC

The Court: The case out made out by the petitioners in the present writ petition is that the Corporation is not taking any steps for consideration of the representation filed for not allowing mutation in favour of purported thika tenant and not to sanction any building plan/permit or enabling documents in favour of any purported thika tenant or any person claiming through or under any thika tenant in respect of premises Nos. 8A to 8H, Naresh Mitra Sarani, formerly 8A to 8H, Beltala Road, Police Station – Bhowanipore, Ward No.72, Borough-VIII, Kolkata-700025 and premises Nos. 28B to 28D, Sakharam Ganesh Dauskar Sarani, formerly 28B to 28D, Townshend Road, Police Station – Bhowanipore, Ward No.72, Borough-VIII, Kolkata- 700025.

The petitioners claim to have been purchased the aforesaid properties from the legal heirs of the erstwhile owners in the year 2006 and

2012. The petitioners have come to learn that names of certain thika tenants are recorded in the record maintained by the Kolkata Municipal Corporation in respect of the said property. The petitioners submit that the said recordings are incorrect and erroneous.

The petitioners approached the Thika Controller to determine the issue of thika but failed to obtain any order therefrom. The petitioners have thereafter approached the West Bengal Land Reforms and Tenancy Tribunal and the issue of thika is presently pending before the Tribunal in OA No.2083/2020 (LRTT).

The petitioners filed the representation before the Corporation with request not to grant any mutation or further mutation in favour of purported tenants without affording a prior opportunity of hearing to them.

It has been submitted in Court that the property in question is a huge one and there are portions which are recorded as thika but portions of it are not.

The petitioners apprehend that persons claiming to be thika tenants may approach the Corporation praying for recording their names and seek mutation and may also obtain sanction for making construction thereon.

The petitioners in the writ petition have not disclosed the names or identity of the persons who may have applied or may approach the Corporation with prayer for incorporating their names in the municipal records. Details of the applicants who seek to obtain sanction for making construction are also not mentioned in the writ petition.

The petitioners claim that they are not aware of the particulars of the persons who seek to obtain sanction or incorporate their names in the municipal record.

The petitioners intend to obtain information from the Corporation as to whether any application has at all been submitted for recording the name as thika tenant and whether any application has been filed for obtaining sanction for making construction thereon.

Learned advocate representing the Corporation submits that neither the Controller, Kolkata Thika Tenancy nor the State of West Bengal nor any other private parties have been impleaded in the writ petition whom the petitioners apprehend to be recorded in the records of the Corporation.

From the submission made on behalf of both the parties, it appears that the writ petition has been filed on mere apprehension that the Corporation may take steps to record the names of certain persons as thika tenants and the Corporation may sanction plan for making construction thereon in favour of any other persons who may apply for the same.

Such prayer of the petitioners for issuing a writ of mandamus on mere apprehension cannot be allowed. The respondent authorities may not be in a position to disclose any information as sought for till proper details are placed before the Corporation. The Corporation will not be obliged to afford an opportunity of hearing to the petitioners in respect of the said property till the petitioners are able to establish their right to be heard prior to any step which may be taken by the Corporation. It will be open for the petitioners to apply before the Corporation seeking relevant information.

No further relief can be granted to the petitioner in the instant writ petition.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)