

OD-3

ORDER SHEET

WPO No. 3277 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AVIJIT MUKHERJEE & ORS.
Versus
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:20th December, 2022.

Appearance:
Mr. Ratul Das, Adv.
Mr. Shoham Sanyal, Adv.
...for Petitioners.

Mr. Gopal Chandra Das, Adv.
Mr. Dwijadas Chakraborty, Adv.
...for KMC.

Mr. Partha Sarathi Bhattacharyya, Adv.
Mr. Tanweer J. Mandal, Adv.
Mr. Raju Bhattacharyya, Adv.
Ms. Somashree Dey, Adv.
Ms. Tuhina Parvin, Adv.
...for Respondent No.6.

Ms. Nilofer Siddique Alam, Adv.
..for State.

The Court:-The petitioners as well as the respondent No.6 are the owners and occupiers of portions of the premises No.32/3, Ramtanu Bose Lane, Police Station-Girish Park, Post Office-Beadon Street, Borough-IV, Kolkata-700006 under the jurisdiction of the Kolkata Municipal Corporation.

The respondent No.6 is carrying out certain renovation work involving demolition and reconstruction of the portion that he is occupying. The petitioners' concern is that the renovation work is causing structural damage to the portions which the petitioners are occupying.

It has been submitted that the building is a single structured building, fairly old and the construction work carried out by the private respondent is resulting in cracks and damages in the walls and floors of the portion occupied by the petitioners.

The petitioners have highlighted their concern by filing representation before the Kolkata Municipal Corporation in November, 2022 and allege that the said representation is yet to be considered.

Learned advocate representing the respondent no.6 submits, upon instruction that, though the work that is being carried out by the private respondent does not require a formal sanction from the Kolkata Municipal Corporation, nevertheless for abandoned caution, a permission has been obtained from the Kolkata Municipal Corporation.

It has been submitted that the construction work is carried out strictly in accordance with the permission granted by the Kolkata Municipal Corporation.

Learned advocate representing the Kolkata Municipal Corporation admits that permission was granted to the private respondent for effecting necessary construction/renovation work.

From the submissions made on behalf of both the parties, it appears that the building in question is an old one which was partitioned in between the co-sharers by dividing the structure into three lots. Two lots are owned by the petitioners and the third lot by the private respondent.

Construction work is carried on by the respondent no.6 at his portion of the subject premises. It may happen that because of the repairs effected by the respondent no.6, certain cracks may appear in the walls, floors and other portions of the structure occupied by the petitioners.

In view of the above, the Executive Engineer, Borough-IV, Building Department, Kolkata Municipal Corporation, being the respondent no.3 herein, is directed to cause a spot inspection of the subject premises to ascertain as to whether the portions occupied by the petitioners are in any manner affected by the renovation work carried out by the respondent no.6.

The said engineer shall advise the parties the manner in which the renovation/repairing work may be carried out keeping in mind the age of the structure and the fact that the premises is a single structured building. Spot inspection shall be conducted upon prior notice to all the parties at the earliest, but positively by 6th January, 2023. Report of inspection be circulated amongst the parties by 12th January, 2023.

The parties are directed to act in accordance with the advice and suggestion given by the Executive Engineer, Borough-IV, Building Department, Kolkata Municipal Corporation.

To ensure that no further damage is caused to the property in question, respondent no.6 is temporarily restrained from carrying on the renovation work till the spot inspection is conducted and the inspection report circulated amongst the parties.

It is made clear that this Court has not entered into the civil disputes in between the parties that is pending consideration before the learned Court below in Title Suit No. 2471 of 2022.

The Executive Engineer, Borough-IV, Building Department, Kolkata Municipal Corporation is also directed not to enter into or decide any private dispute in between the parties and to restrict the inspection only with regard to the manner in which the repairing work may be carried out so that no

damage is caused to either of the parties holding portions in the self same structure.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 25th November, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the Additional Officer-in-Charge, Girish Park Police Station in Court today is taken on record.

Affidavit of service filed 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