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ORDER SHEET

WPO No.3331 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M. SAFIULLA WAKF ESTATE & ANR.
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:22nd December, 2022.

Appearance:
Mr. Ranajit Chatterjee, Mr. Aniruddha Mitra, Ms. Uzma Ali,
Advocates for the Petitioners.

Mr. Gopal Chandra Das, Mr. Rudranil De,
Advocates for KMC.

The Court:-The petitioner no.1 is a wakf estate and the petitioner no.2 is the Mutwalli of the wakf estate standing at 1, Suhrawardy Avenue, P.S.-Beniapukur, Kolkata-700 017, Borough-VI, Ward No.60, of the Kolkata Municipal Corporation.

The petitioners submit that there is a huge banyan tree in front of the entrance of the aforesaid premises on the footpath of Suhrawardy Avenue. The roots of the tree have entered the subject premises and have badly damaged the underground drainage and water lines of the building. The structural stability of the building is also being affected by the tree.

The petitioners through their learned advocate filed representation before the various authorities of the Kolkata Municipal Corporation with a request to remove the said tree. Lastly, representation has also been filed before the Municipal Commissioner in December, 2022. None of the

representations of the petitioners have been taken up for consideration till date.

The petitioners pray for a direction upon the Municipal Commissioner to act in accordance with the provision of Section 498 read with Sections 517 and 517A of the Kolkata Municipal Corporation Act, 1980.

According to the petitioners, the said tree is a constant nuisance and the same is liable to be removed immediately to prevent further damage to the property.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive any instruction in the matter.

In view of the above, the instant writ petition is disposed of by directing the Municipal Commissioner, Kolkata Municipal Corporation being the respondent no.2, herein to take a decision with regard to the prayer made on behalf of the petitioners for removal of the banyan tree which is a nuisance, in accordance with law after giving reasonable opportunity of hearing to all the necessary parties.

The Municipal Commissioner, Kolkata Municipal Corporation shall cause an inspection, upon notice, to ascertain the manner in which the alleged nuisance can be removed.

A decision shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

Steps taken in the matter shall be communicated to the petitioners.

The writ petition stands disposed of.

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.)

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