

OD-8

ORDER SHEET
WPO No.3353 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. KHETAWAT PROPERTIES LIMITED & ANOTHER
VS.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:22nd December, 2022.

Appearance:
Mr. Raghunath Chakraborty, Mr. Bratin Kr. Dey,
Ms. Anjana Banerjee and Ms. Mahasweta Pramanik,
Advocates for the Petitioners.

Mr. Gurudas Mitra, Mr. Fazlul Haque,
Advocates for KMC

Mr. Debashis Ghosh, Mr. Sayan Ganguly,
Advocates for State.

The Court:- The petitioners complain of illegal and unauthorized construction carried out at premises No. B/176 & 176/1A, Maniktala Main Road, Kolkata – 700 054.

Petitioners submit that construction is being made by illegal occupiers without obtaining any sanction from the Kolkata Municipal Corporation. It has been submitted that the issue, whether the property is thika or not, is pending consideration before the Controller, Kolkata Thika Tenancy. Prayer has been made for consideration of the objections filed before the Municipal authorities.

Learned advocate representing the Kolkata Municipal Corporation has obtained instructions from the Executive Engineer (Civil), Building Department, Borough-III, wherefrom it appears that the department conducted inspection of the subject premises on 21st December, 2022 when

it was observed that there is a single storied tile shed structure at the said premises. The said structure is substantially old and fully occupied. Front portion of the aforesaid structure has collapsed and the area is filled up with debris and old iron rods. No new construction was detected at the time of inspection.

Learned advocate representing the Kolkata Municipal Corporation draws attention to the order passed by this Court in the earlier writ petition filed by Lalit Kumar Khetawat & Ors, being WP No.1183(W) of 2012. M/s. Khetawat Properties Limited, the petitioner no.1 herein, was the petitioner no.9 in the aforesaid writ petition. Nine persons were impleaded as proforma respondents in the said writ petition.

The petitioners in the earlier writ petition specifically prayed for a direction upon the respondent authorities to restrain the private respondents from raising any new construction or further construction in respect of the subject premises.

None of the private respondents as impleaded in the earlier writ petitioner has been impleaded in the present writ petition. Four persons being respondent nos. 7 to 10 who have been impleaded in the present writ petition could not be served. The track reports contain the postal endorsement "door locked, information given".

It appears from the submissions made on behalf of the parties and upon perusal of the materials on record that the allegation of the unauthorized construction remains unsubstantiated.

Site inspection by the engineers of the Kolkata Municipal Corporation does not reveal that any construction is being carried on at the subject premises.

In view of the above, no order can be passed in the present writ petition. The writ petition fails and is hereby dismissed.

Instruction forwarded by the Executive Engineer (Civil), Building Department signed on 22nd December, 2022 to the learned advocate for the Kolkata Municipal Corporation via e-mail is retained with the records.

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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