

ML 268
03.02.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 839 of 2022

**Tapas Chakraborty
-versus
The State of West Bengal & Ors.**

**Mr. Asit Kumar Bhattacharya.
...For the Petitioner.**

**Mr. Debjit Mukherjee,
Ms. Dipanwita Ganguly.
...For KMC.**

**Mr. Bratin Kumar Dey,
Ms. Mahasweta Pramanik.
...For the Respondent
Nos. 6 and 7.**

**Mr. Himadri Sikhar Chakraborty.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents at 12B, Sadananda Road, Ward No. 83, Borough-VIII, Kolkata Municipal Corporation.

The petitioner complains that the objection filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate appearing for the private respondents denies the allegation of unauthorized construction.

It has been submitted that the petitioner filed an earlier writ petition on the selfsame cause of action and the said writ petition being W.P. No. 7144 (W) of 2016 stood dismissed for default by the Court on 8th June, 2018.

Learned advocate appearing for the Kolkata Municipal Corporation has filed a report signed by the Assistant Engineer (Civil) and the Executive Engineer (Civil), Borough-VIII, Kolkata Municipal Corporation on 1st February, 2023 mentioning that a plan for reconstruction of roof of an existing single storied residential building was approved with construction of new stair leading from ground floor to the roof of the single storied building with stair head room on roof as per provision of Section 410 of the Kolkata Municipal Corporation Act, 1980 and Rule 3(2)(e) of the Kolkata Municipal Corporation Building Rules, 2009.

The existing single storied building was attached with the existing building of the petitioner. The same was shown in the building plan approved by the Deputy Chief Engineer (Building)/South dated 19th May, 2012.

Relying on the reconstruction plan, the private respondents reconstructed the roof and the stair with the head room.

From the report received by the engineers of the Kolkata Municipal Corporation, the allegation of the petitioner that the private respondents made illegal and unauthorized construction cannot be substantiated.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition, accordingly, fails and is hereby dismissed.

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

(Amrita Sinha, J.)