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Supple Ct No 2023
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AGM

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

**WPA 3228 of 2023
With
CAN 1 of 2023**

**Sanjib Safui
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Ranajit Chatterjee
Mr. Arnab Das
Ms. Epsita Bhattacharya
... For the petitioner.

Mr. Alak Kumar Ghosh
Mr. Gopal Chandra Das
... For the KMC.

Mr. Satyam Mukherjee
Ms. Sayani Ahmed
... For the respondents.

Mr. S. T. Mina
Mr. Pratim Sardar
... For the private respondent nos. 6 and 7.

The petitioner complains of illegal and unauthorised construction over R.S. Dag No. 417, C.S. Khatian No. 159, R. S. Khatian No. 153/1, J.L No. 12 under Mouza – Madurdaha, District- South 24 Parganas under the jurisdiction of Kolkata Municipal Corporation, Ward No. 108.

The petitioner relies upon the Record of Rights to show that the plot in question is recorded as Beel and no construction can be made thereon. A complaint was lodged before the Municipal Commissioner, Kolkata Municipal Corporation in January 2023 and the petitioner alleges that the same has not been taken up for

consideration till date. Subsequent reminders given also did not yield any result.

Learned advocate representing the KMC submits, upon instruction that, plan for making construction was sanctioned by the Corporation in the year 2015. The petitioner has approached this Court after a long delay.

Learned advocate representing the private respondents no. 6 and 7 submits, upon instruction that, the property in question was purchased in the year 1982 and thereafter permission was sought for obtaining sanction plan and construction has been made in accordance with the sanction granted by the Corporation.

It has further been submitted that the land in question is not a water body and necessary permission for conversion of the classification of the land has been obtained.

An application for addition of party has been filed by Sasanka Sekhar Safui, Swapna Gayen and Hena Naskar. It has been submitted that the applicants are necessary parties in the instant writ petition. Several Title Suits in respect of the selfsame property is pending consideration before the learned Court below.

The petitioner herein is impleaded as proforma defendant in one of the Title Suits being T.S. 83 of 2018. The petitioner is the plaintiff in the Title Suit No. 204 of 2016 in respect of the subject property.

A separate Title Suit being T.S. 109 of 2018 is also pending consideration before the learned Court below in respect of the selfsame property.

From the plaint of TS 83 of 2018 it appears that a prayer has been made for restraining the defendants, their men and agents from changing the nature and character of the suit property.

As it appears that the property in question against which allegation of unauthorised construction has been made is the same property involved in the pending Title Suit and the applicants are parties in the said Suit, accordingly, to prevent multiplicity of proceedings the application for addition of party stands allowed.

Upon hearing the submissions made on behalf of all the parties and upon perusal of the materials already available on record, it appears that the classification of the plot of land and the prayers made in the Title Suit are directly related to the suit property involved in the present writ petition. Any order passed in the instant writ will have a direct bearing on the pending Title Suits.

At this stage, there is no requirement to cause investigation with regard to the status/classification of the property as sought for.

The parties will be at liberty to take appropriate steps after disposal of the pending Title Suits.

The writ petition stands disposed of.

The application being CAN 1 of 2023 is also 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.*)