

Ct. 24
Item No.07
22.06.2023
(Suvendu)

WPA 5647 OF 2023

Tapan Roy (Paul)
Vs.
The State of West Bengal & Ors.

Mr. Arun Kumar Mohanty (Maiti)
Mr. Satrajit Sinha Roy
Mr. R.R. Mohanty
Mr. Komal Shaw
Mr. Sumit Shaw
Ms. Snigdha Ghosh
Mr. Shivam Saha

...for the petitioner

Mr. Debashis Banerjee Banerjee
Mr. Rakesh Jana
Mr. S. Majumder

.....for the respondent nos. 11-17

Mr. Barin Banerjee
Ms. Manisha Nath

.....for the KMC

Mr. Dibyajyoti Raha

...for the respondent no. 18

The affidavit of exception to the report of the Kolkata Municipal Corporation filed by the petitioner in Court today is taken on record.

The petitioner submits that he has purchased the ground floor of the subject premises in the year 2021. The offending construction is in the top floor of the subject premises. The Kolkata Municipal Corporation has perused the deed in respect of the second floor of the subject premises. The description

mentioned in the deed with regard to the second floor tallies with the construction that is actually existing.

From the aforesaid it can be safely presumed that the said construction was existing in the year 2016.

The petitioner after purchasing the property in 2021 got knowledge about the aforesaid unauthorized construction and submits that because of the same the load bearing capacity of the walls of the said structure specially in the ground floor is being damaged.

The petitioner prior to purchasing the subject property ought to have carefully searched out as to whether the entire building was constructed in accordance with the sanctioned plan or not. After purchasing a portion in the ground floor the petitioner raises objection to a construction which is in existence prior to his purchase. None of the other neighbors complained about the construction-in-question which is in existence for more than seven years now.

The petitioner submits that the construction-in-question cannot be permitted to be held to be an authorized one due to passage of time. The Court is of the opinion that the complaint ought to have been lodged before the Corporation immediately at the

time of making such construction or soon thereafter. The above construction is in existence for more than seven years. Valuable rights may have accrued in favour of the occupant in the meantime. The petitioner has purchased the property only in the year 2021.

Accordingly the prayer of the petitioner seeking demolition of the said construction, at this stage, cannot be accepted by the Court.

No relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Amrita Sinha, J.)