

Ct. 24
Item No.34
04.07.2023
(Suvendu)

WPA 7618 OF 2023

**Premnath Agarwalla
Vs.
Kolkata Municipal Corporation & Ors.**

Mr. Rudraman Bhattacharyya
Ms. Piyali Sengupta
Ms. Amrita Panja Moulick

...for the petitioners

Mr. Gopal Chandra Das
Mr. Ziaur Rahaman

....for the KMC

Mr. Dwarika Nath Mukherjee
Mr. Manik Lal De

.....for the State

Mr. Sharanya Chatterjee

....for the private respondent no.7

Mr. Sourav Sengupta
Mr. Aman Baid

....for the respondent no. 8

The affidavit of service filed in Court today on behalf of the petitioner is taken on record.

The State is represented by learned Counsel.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent nos. 7 and 8. Objection filed against such unauthorized construction is alleged to be kept pending.

Learned advocate representing the respondent no. 7 submits upon instruction that the property in

question is a joint unpartitioned property. A Civil Suit is pending consideration before the learned Court below. An order of status quo has been passed and the parties are maintaining the same. It has been submitted that no construction has been made at the behest of the said private respondent as alleged or at all. On the contrary the petitioner is responsible for making unauthorized construction.

Learned advocate representing the respondent no. 8 submits that no construction has been made by the respondent no. 8.

Learned advocate representing the Kolkata Municipal Corporation produces copy of the report signed by the Assistant Engineer and the Executive Engineer (Civil)/ Borough VIII, Building Department of the Kolkata Municipal Corporation which mentions that on receipt of a complaint from the petitioner, the premises was inspected and it was found that the same is a partly three and partly four storied building which appears to be old. There was a cantilever portion in the upper floors. The ground floor outer wall in the cantilever portion has been demolished and new brick wall has been constructed in the same portion by shifting from the existing position to increase the area of the ground floor. No valid document for making such changes has been

produced by anyone in support of the said construction.

The Department issued a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 and intimation to the Tollygunge Police Station was sent on 6th April, 2023. Further departmental action is awaiting.

It appears from the report filed by the Corporation that unauthorized construction has indeed been detected. The Corporation shall take necessary steps to deal with such unauthorized construction in accordance with law.

It is made clear that the Corporation shall not enter into or decide any private dispute in between the parties and the learned Civil Court will be at liberty to decide the pending Title Suit in accordance with law.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)