

Item No. 79(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

9.01.2023
Ct-24

WPA 14959 of 2021
Sri Jitendra Nath Das & Anr.
v.
The Kolkata Municipal Corporation & Ors.

Mr. Ambar Nath Banerjee
Ms. Amrita Panaja Moulick
... for the petitioners.

Mr. Ziaul Islam
Mr. Abdus Salam
... for the State.

Mr. Sabyasachi Chatterjee
Mr. Aniruddha Bhattacharya
Ms. Ritwika Ghosh
Ms. Riya Ballav
... for the respondent nos. 8 to 10.

Mr. Achintya Banerjee
Mr. Biswajit Mukherjee
Mr. Rudranil De
... for KMC.

The petitioners seek withdrawal/cancellation of sanction made by the Kolkata Municipal Corporation on the ground of fraud and mis-representation.

It has been submitted by the petitioners that the petitioners and the private respondent nos. 8, 9, 10 and 11 are the joint shebaites of the debottor property and the respondent no. 12 is the developer engaged by the private respondent for developing the said property at 53, Ganapati Sur Sarani, Police Station-Sinhi, Kolkata-700050.

It has been submitted that the private respondents, for development of the property, obtained plan from the Kolkata Municipal Corporation by suppression and mis-representation of facts.

It has been submitted that in the year 2021 the construction started to begin and immediately thereafter the petitioners, through their learned advocate, submitted a representation before the Kolkata Municipal Corporation seeking withdrawal/cancellation of sanction.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction, that the plan in question was sanctioned in the year 2014 and the same was revalidated in the year 2021. The petitioners waited till 2021 for filing the present writ petition.

In response to the said submission it has been submitted by the petitioners that, the petitioners were not at all aware of the grant of sanction by the Corporation. Only after the petitioners noticed in the year 2021, that construction was being made, the demand justice notice was submitted before the Kolkata Municipal Corporation.

Learned advocate representing the private respondent nos. 8 to 10 denies the allegation of the petitioners.

None appears on behalf of the respondent nos. 11 and 12 despite service.

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

As it appears that a representation filed before the Kolkata Municipal Corporation seeking withdrawal/cancellation of the sanctioned plan obtained on suppression and mis-representation of facts is pending consideration before the Kolkata Municipal Corporation, accordingly, the present writ petition is disposed of by directing the Municipal Commissioner or his delegate to take steps to consider the same strictly in accordance with law after giving reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The parties will be at liberty to produce all documents in support of their claim before the respondent authority considering the case.

A reasoned order shall be passed and communicated to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation filed on behalf of the petitioners.

Learned advocate for the petitioners is directed to forward a copy of the legal representation dated August 17, 2021 along with all other documents in support of their claim to the aforesaid respondent at the time of communicating the order of the Court.

If the aforesaid respondent is of the opinion that any consequential step is required to be taken, then the same shall be taken in accordance with law.

The writ petition stands disposed of.

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

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(Amrita Sinha, J.)