

Item No.237

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

20.04.2023  
Ct-24

WPA 17041 of 2021  
M/s. Leonine Estate Pvt. Ltd. & Ors.  
v.  
The Kolkata Municipal Corporation & Ors.  
with  
CAN 1 of 2022, CAN 2 of 2022 & CAN 3 of 2022

Mr. Manik Das  
Mr. Priyankar Basu Mallick  
Mr. Aniruddha Sinha  
Mr. Sujay Nath  
... for the petitioners.

Mr. Alak Kumar Ghosh  
Mr. Dwijadas Chakraborty  
... for KMC.

Mr. Srijib Chakraborty  
Mr. Bimalendu Das  
Mr. Aditya Mondal  
Mr. Shomrik Das  
... for the applicants.

Mr. Arindam Chattopadhyay  
Ms. Lipika Chatterjee  
... for the State.

The instant writ petition has been filed by eighteen companies claiming themselves to be the owners of thirteen plots of land. The writ petition has been affirmed by one Ghanshyam Das Sharma claiming to the authorized signatory of the petitioners.

The said Ghanshyam Das Sharma derives his right as the authorized signatory of the petitioners on the basis of a joint Board Resolution allegedly taken by all the eighteen companies on December 5, 2014.

The said resolution mentions that Mr. Ghanshyam Das Sharma, Director of the company is authorized to enter into sale agreement and affix signature in the agreement for sale in respect of sale of premises no. 736, Madurdaha. It was further resolved that the company will allot a quantified area to the said Ghanshyam Das Sharma and another or their nominees in the project to be constructed at the aforesaid address for their past, present and future services till completion of the project as per final discussion. The said resolution was signed by the said Ghanshyam Das Sharma as authorized representative of all the eighteen companies.

The writ petition has been filed challenging the order passed on September 23, 2017 by the Joint Municipal Commissioner (Revenue & Supply), Kolkata Municipal Corporation refusing to sanction the building plan for non-production of certain documents.

An application for transposition of twelve petitioners from the category of petitioners to respondents being CAN 1 of 2022, a further application for dismissal of the writ petition being CAN 2 of 2022 and yet another application being CAN 3 of 2022 for perjury has been filed by twelve applicants being twelve out of the eighteen writ petitioners.

The case made out by the applicants is that Ghanshyam Das Sharma is not the authorized representative of the aforesaid twelve companies. His directorship stood terminated with effect from August 11, 2017 and after the said date the said Ghanshyam Das Sharma did not have the authority to sign any document on behalf of the twelve applicants.

The learned advocate representing the erstwhile writ petitioners i.e. the eighteen companies submits that as per the Board's resolution of the eighteen companies, the deponent is to continue with the project till the completion of the same. As the project is yet to be completed, accordingly, the said Ghanshyam Das Sharma will have the right to act as the authorized representative.

I have perused the documents placed on record. It appears that though the writ petition has been filed challenging the order passed by the Joint Municipal Commissioner but in fact, the petitioners are quarreling amongst themselves. The authority of the deponent has been challenged by some of the petitioners.

The Board's resolution dated December 5, 2014 addresses Ghanshyam Das Sharma as the Director of the companies. It appears that his directorship has been terminated in the year 2017.

Learned advocate for the eighteen companies submits that as the resolution taken to permit Ghanshyam Das Sharma to act as authorized representative has not yet been revoked, accordingly, he ought to be permitted to represent all the eighteen companies.

I am not convinced with the aforesaid submission.

Power was granted to the said Ghanshyam Das Sharma only as a Director of the company. The moment the said directorship is lost, Ghanshyam Das Sharma loses the right to represent the other companies i.e. the

twelve companies who do not accept him as their Director.

A person not authorized by the company to act on its behalf cannot be permitted either to initiate or proceed with any act on behalf of the company. The deponent is forcibly trying to hold on to the authority allegedly granted in his favour at one point of time. Presently, the twelve companies do not accept the deponent as their representatives and, accordingly, the deponent cannot be permitted to proceed with the writ petition on behalf of the applicant companies.

Moreover, the resolution of the Board of Directors adopted in the year 2014 has been signed by none other than the deponent himself. It is like the deponent authorizing himself to act on behalf of all the eighteen companies.

As the Court is not satisfied with the locus of the deponent to move the instant writ petition on behalf of the petitioners, accordingly, the writ petition cannot be entertained by the Court.

The same stands dismissed.

Consequently, all the three connected applications stand 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.)**