

11.12.2023
court no. 25
serial no. 21
kaushik

WPA 16498 of 2023

Md. Shabbir
Vs.
The State of west Bengal & Ors.

Ms. Swgheta Maity, Advocate
... .. for the Petitioner

Mr. L. M. Mahata, Id. AGP
Mr. Ziaul Haque, Advocates
... .. for the State

Mr. Anand Farmania,
Mr. Koustav Bhattacharya, Advocates
... .. for the KMC

None represents the private respondent.

Affidavit of service filed in Court be taken on record.

The petitioner claims to be a tenant and occupier of premises no. 13A/H/7, Marcus Square under Borough-IV of the Kolkata Municipal Corporation (KMC). The private respondents are alleged to be the unauthorised occupants of a portion of the subject premises.

The petitioner alleges that the private respondents are making unauthorised construction at the subject premises without obtaining any sanction from the Corporation. Representation was filed before KMC and the same is alleged to be kept pending.

I have perused the representation filed by the petitioner and the legal representation sent on his behalf. None of the representations disclose the specification of unauthorised construction. A statement has been mentioned that the private respondent is cutting the outside wall and pillar and causing illegal unauthorised construction by changing

the nature and character of the building without the permission of the landlord. Surprisingly, the landlord has not been impleaded as a party in the present writ petition.

Learned advocate representing KMC has not taken any instructions in the matter. Without proper instruction from the concerned Executive Engineer, it will not be possible for the Court to decide the issue conclusively.

In view of the above, the writ petition is disposed of by granting leave to the petitioner to file comprehensive representation highlighting the unauthorised construction allegedly made.

In the event such a representation is filed, the same shall be considered by the Executive Engineer of Borough-IV & V, KMC strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties. Spot inspection upon prior notice to the necessary parties shall be conducted to ascertain the nature and extent of unauthorised construction.

If ultimately it transpires that any unauthorised construction has been made, the same shall be appropriately dealt with by the respondent. The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

WPA 16498 of 2023 is disposed of without any order as to costs.

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

(Amrita Sinha, J.)