

Item No.93

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.12.2023
Ct-24

WPA 17807 of 2023
M/s. Exclusive Homes Private Limited & Anr.
v.
The Kolkata Municipal Corporation & Ors.

Mr. Supratim Dhar
Mr. Rahul Karmakar
Mr. Amitava Mitra
Mr. Srijib Chakraborty
Mr. Abir Lal Chakraborty
Ms. Antara Choudhury
... for the petitioners.

Mr. Alak Kumar Ghosh
Mr. Arijit Dey
... for KMC.

The petitioners seek sanction of the plan proposal for construction of G+6 storied residential building (additional block) at premises no. 47, Gurupada Halder Road. The plan proposal was forwarded by the Executing Engineer (C), Building Department, Borough-VIII to the West Bengal Heritage Commission vide letter dated 13th July, 2023 soliciting opinion for sanction.

The petitioners rely upon an order dated January 28, 2021 passed by the Hon'ble Division Bench of this Court in MAT 17 of 2021 with IA CAN 1 of 2021 (Exclusive Homes Private Limited & Anr. v. The State of West Bengal & Ors.) wherein the Court made it absolutely clear that the building cannot be declared as heritage.

In view of the aforesaid finding of the Hon'ble Division Bench of this Court, the Executive Engineer

ought not to have referred the matter to the Heritage Commission soliciting opinion as the building has been held not to be heritage structure.

The Executive Engineer ought to have taken independent decision upon consideration of the plan proposal submitted by the petitioner.

It appears that the plan proposal was submitted more than a year back and the same is pending consideration.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer (Building), Borough-VIII to take steps for consideration of the plan proposal submitted by the petitioner in accordance with law at the earliest but positively within a period of three months from the date of communication of this order. The aforesaid officer shall intimate the petitioners the formalities required to be complied with for obtaining sanction.

Reasoned order shall be passed and communicated to the petitioners within the time limit as specified hereinabove.

Leave granted to the learned advocate-on-record of the petitioners to amend the description of the respondent no. 4 in the cause title of the writ petition.

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.

