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08-08-2023
debajyoti
(Ct. no.06)

MAT 1465 of 2023
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IA NO:CAN/1/2023

Shanti Devi Singh & Ors.
Vs.
The Municipal Commissioner, The Kolkata
Municipal Corporation & Ors.

Mr. Moyukh Mukherjee,
Mr. Suryaneel Das,
Mr. Chiranjit Pal,
Mr. Sagnik Banerjee
... For the Appellants.

Mr. Srijan Nayek,
Mr. Dwijadas Chakraborty
... For K.M.C.

Defect, as noted by the Additional Stamp Reporter on August 03, 2023, be cured forthwith.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

This appeal is directed against a judgment and order dated July 04, 2023, whereby the writ petition of the respondent no.6 herein, being WPA 7911 of 2023, was disposed of.

The present appellants were respondent nos.8 to 11 (private respondents) in the writ petition.

The writ petitioner approached the learned Single Judge alleging illegal and unauthorized construction at Premises No.B/136/H/22, Narkeldanga Main Road, Kolkata, at the instance of the private respondents in the writ petition. The writ petitioner further complained that Kolkata Municipal

Corporation was not taking any steps on the basis of the complaint lodged by him.

Before the learned Single Judge, it was submitted on behalf of the Corporation that on detection of unauthorized construction at the concerned premises, steps have been taken to initiate proceedings under the provisions of Section 400 of the Kolkata Municipal Corporation Act, 1980 and steps have already been taken for demolition of the unauthorized construction. It was further submitted that a substantial portion of the unauthorized structure had already been demolished.

The learned Judge observed that from the report of the Corporation that was filed before Her Ladyship, it was not clear as to whether the entire unauthorized construction has been demolished or not. Accordingly, the learned Judge disposed of the writ petition by directing the Executive Engineer of the concerned Borough to take steps for demolition of the entire unauthorized structure at the earliest, if not demolished in the meantime.

Being aggrieved, the private respondents in the writ petition have come by way of this appeal.

The primary grievance of the appellants is that notice of the proceedings before the learned Single Judge was not served on them. Learned advocate says that the addresses of the private respondents, as mentioned in the cause-title of the writ petition, correspond to the address of the premises where the alleged unauthorized construction was being raised. It was a building under construction and nobody could reside in that building. Hence, wrong addresses

of the private respondents have been mentioned in the cause-title of the writ petition.

Mr. Nayek, learned advocate for the Corporation, points out that the address of the premises where unauthorized construction was being made is different from the addresses of the private respondents mentioned in the cause-title of the writ petition. In any event, he says that the demolition work is almost complete and is likely to be completed by the end of the day, as per his instruction.

Learned advocate for the appellants says that the appellants should be given at least a hearing before the demolition is completed. Although there is no sanctioned building plan, the appellants intend to apply for regularization of the unauthorized structures.

We have considered the rival contentions of the parties. It is not in dispute that the impugned construction was raised by the appellants without there being any sanctioned building plan. It is our considered view that citizens, who take law into their own hands and make constructions without obtaining prior sanction from the competent authority, deserve no sympathy of the Court. The law generally does not contemplate making of construction without prior permission and then applying for legalizing the same. People, who indulge in illegal construction without obtaining prior permission from the appropriate authority, are reckless and deserve no leniency.

In view of the aforesaid, we see no infirmity in the order of the learned Single Judge. The appeal and the connected application are, accordingly, dismissed. There will, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)