

36
11.12.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 19310 of 2023

**Md. Idris
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Tarique Quasimuddin,
Ms. Zainab Tahur.
.... For the Petitioner.**

**Mr. Avijit Sarkar,
Ms. Rinku Sen.
...For the State.**

**Mr. Farooque Ali,
Mr. Afsar Ali,
Mr. Faijan Md. Zafar.
...For the Respondent No.7.**

**Mr. Gopal Chandra Das,
Mr. Abhishek Sikdar.
...For KMC.**

The petitioner alleges that construction at premises no. B/6/H/2, Crematorium Street, Ward No. 60, Borough-VI of the Kolkata Municipal Corporation is being made on the basis of a plan sanctioned by the Corporation upon misrepresentation and fraud.

Specific submission of the petitioner is that the plot in question is owned by three persons. Out of the three, two expired long back. The plan was sanctioned by the Corporation in the name of all the three owners in the year 2021. FIR was lodged and a criminal case is pending consideration before the learned Court.

The petitioner has made representation through his learned advocate before the Municipal Commissioner seeking cancellation of the sanctioned plan which is pending consideration.

Learned advocate appearing for the private respondent submits, upon instructions, that till the criminal case is decided by the Court, the Corporation may not be in a position to adjudicate the issue.

Learned advocate appearing for the Kolkata Municipal Corporation has produced a report signed by three engineers of the Corporation on 11th December, 2023. It appears therefrom that unauthorized construction was detected and steps are being taken to deal with the same.

There is no instruction forwarded by the Corporation with regard to the consideration of the petitioner's prayer seeking cancellation of the sanctioned building plan.

As the representation filed by the petitioner is pending consideration, accordingly, the instant writ petition is disposed of by directing the Municipal Commissioner or his delegate to consider the legal representation filed by the petitioner on 27th July, 2023 in accordance with law, after giving a reasonable opportunity of hearing to all the necessary parties and dispose of the same at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

If from the records it appears that the plan was sanctioned in favour of the persons who were no longer

alive on the date of sanction, then necessary consequential steps shall be taken to redress the issue.

Learned advocate appearing for the petitioner is directed to forward a copy of the legal representation dated 26th July, 2023 along with copy of the supporting documents of death of the recorded owners to the aforesaid respondent at the time of communicating the order of the Court.

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.

(Amrita Sinha, J.)