

ML 52
17.08.2023
Ct. No. 15
adeb

W.P.A. 19804 of 2018

Sudhansu Kumar Rakshit

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. Durga Prasad Gupta

....for the petitioner

Mr. Alak Kr. Ghosh

Mr. Arijit Dey

...for the KMC

The writ petition is presented, *inter alia*, challenging the order of the Joint Municipal Commissioner (G & D), Kolkata Municipal Corporation since, according to the petitioner, the water tank and the altar for flag hosting are located in front of the premises of the petitioner which obstructs ingress and egress. The Joint Municipal Commissioner on obtaining reports from the Building Department as well as the police authority found that the water tank was there in front of the premises of the petitioner on the pavement for a period of approximately 10 years and there is no obstruction to ingress and egress so far the premises of the petitioner is concerned. Therefore, the contention of the petitioner in effect was negated as it appears from the order of the Joint Municipal Commissioner.

Petitioner filed Public Interest Litigation being WP 191 of 2018, *inter alia*, challenging the order of the Joint Municipal Commissioner, but the said challenge failed

and the Hon'ble Division Bench dismissed the writ petition upon making following observations:-

“The petitioner did not take any steps to challenge the said order of the Joint Municipal Commissioner before any forum. In other words, the petitioner accepted that there is no obstruction to traffic movement or to the ingress to or egress from his residence by reason of the water tank in question or the waste products.”

Placing reliance on this order of the Hon'ble Division Bench dated 8th June, 2018 the learned advocate for the Kolkata Municipal Corporation has rightly contended that the present writ petition is not maintainable. It does appear from the order of the Hon'ble Division Bench that it was found the writ petitioner accepted that there is no obstruction to traffic movement or to the ingress to or egress from the residence of the petitioner by reason of water tank in question.

In view of aforesaid observations made by the Hon'ble Division Bench this Court finds it not fit to interfere with the order passed by the Joint Municipal Commissioner which is subject matter of challenge in the present writ petition.

Accordingly, the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)