

Item No. 8

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

6.01.2023
Ct-24

WPA 25530 of 2022
Avlon Shiksha Niketan & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Rabi Sankar Chattopadhyay
Mr. Sayan Chattopadhyay
Ms. Ayesha Iman
Mr. R. Ali

... for the petitioner.

Mr. Barin Banerjee
Ms. Sima Chakraborty
... for KMC.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for the State.

Mr. Chandra Sekhar Banerjee
Mr. Shamait Dutta
... for the respondent no. 8.

The petitioners complain that the private respondent is making construction by encroaching the common passage. An objection was filed before the Kolkata Municipal Corporation in August 2022 and the petitioners submit that the same has not been considered till date.

Learned advocate representing the private respondent denies the allegation of the petitioners.

It has been submitted that no new construction has been made at the instance of the private respondent. The construction in question is in existence for a long period of time.

Learned advocate representing the Kolkata Municipal Corporation has produced the report by the Executive Engineer(C) and the Sub-Assistant Engineer (C), Building Department, Borough-III signed on December 2, 2022 wherein it has been mentioned that the site at P-252 C.I.T. Scheme VI M, P-250B C.I.T. Scheme VI M and P-250/A C.I.T. Scheme VI M was inspected and it was revealed that all buildings at site were substantially old. Inspection further revealed that two G.I. Sheds were observed covering the common passage. No new construction was detected at the time of inspection.

As it appears from the report of the engineers of the Kolkata Municipal Corporation that there exist G.I. sheds over the common passage, it is for the Executive Engineer of the concerned borough to take a decision as to whether the aforesaid sheds can be placed over the common passage or not.

A decision shall be taken in the matter after giving reasonable opportunity of hearing to all the necessary parties. A formal order shall be passed by the Executive Engineer upon hearing the parties positively within a period of twelve weeks from the date of communication of a copy of this order.

If the Executive Engineer is of the opinion that the sheds cannot be placed over the common passage and the same may amount to unauthorised construction, then necessary steps shall be taken for demolition of the sheds in accordance with law.

The writ petition stands disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation be retained with the records.

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

Sh

(Amrita Sinha, J.)