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07.08.2023
d.p.

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

W.P.A 28537 of 2022

**Saraswati Roy & Anr.
-versus
Kolkata Municipal Corporation & Ors.**

**Mr. Ambu Bindu Chakraborty,
Ms. Mrinmoyee Roy Chowdhury.
...For the Petitioners.**

**Mr. Rahul Karmakar,
Mr. Sounak Mukherjee.
...For Private Respondents.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners allege illegal and unauthorized construction over the premises no. B/226A/H/41, Bagmari Road.

The petitioners claim that they are the legal heirs and successors of the original thika tenant of the subject property.

It has been submitted that the private respondents, depriving the petitioners, mutated the premises in their names and are presently raising construction thereon.

A complaint was lodged before the Kolkata Municipal Corporation and the same is alleged to be kept pending.

Learned advocate appearing for the private respondents denies the allegation of the petitioners.

It has been submitted that the predecessor-in-interest of the private respondents was the recorded thika tenant. After his death, the private respondents stepped into the shoes of the thika tenant.

The private respondents have applied before the Corporation for obtaining a plan for making construction thereon. The same is pending till date.

The Court is of the opinion that the Kolkata Municipal Corporation will not be the competent authority to decide the issue of thika tenancy.

It will be open for the petitioners to apply before the competent authority as regards declaration of their status as thika tenants.

The private respondents are, however, restrained from making any construction over the subject property without obtaining a valid sanctioned plan from the Kolkata Municipal Corporation.

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.)