

ORDER SHEET
WPO/170/2018
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PAPIA DAW
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 24th April, 2023

Mr. Kumar Jyoti Tewari
with Mr. Amrit Sinha &
Mr. Aniruddha Tewari, Advs.
...for the petitioner.

Mr. Mihir Kundu led by
Mr. Gurudas Mondal, Advs.
...for the KMC.

Mrs. Sipra Majumdar, Adv.
Mr. Debarati Sen (Bose), Adv.
...for the State.

Affidavit of service, filed in Court today, be taken on record.

This is a hearing matter after completion of affidavits.

The petitioner complained of issuing a sanctioned building plan in favour of the private respondent nos. 6-8 in respect of **premises no.30, Maa Saradamoni Sarani, Kolkata – 700003**. The petitioner claimed to be an owner in respect of the said premises and claimed that behind the back of the actual owners, the plan was sanctioned.

Referring to **Annexure P-14 at page 119 to the writ petition**, Mr. Tiwari, learned Counsel appearing for the petitioner,

submitted that, the representation was made before the respondent no.2 on September 24, 2014 seeking cancellation of the said sanctioned plan. But the same had not yet received the attention of the Corporation authorities.

Mr. Kundu, learned Advocate appearing for the respondent nos. 1-3, submitted that, the entire premises is full of unauthorised constructions. He had handed over a written instruction of his clients dated April 12, 2023 in this regard. The same be taken on record. He further submitted that, necessary notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was also issued on September 13, 2013.

Considering the above submissions made on behalf of the parties and considering the materials on record, it appeared to the Court that, to adjudicate upon the validity and legality of the building plan sanctioned in favour of the private respondents *qua* the allegation of unauthorised constructions at the premises, several factual aspects are required to be gone into.

For those reasons, to sub-serve justice, the respondent no.3 is directed to consider the representation of the petitioner dated September 24, 2014 being **Annexure P-14 at page 119 to the writ petition** along with the disputes out of which the notice under

Section 401 of the KMC Act was allegedly issued in respect of the same premises after giving at least a prior seven days' hearing notice to the petitioner and the respondent nos. 6-8 and after giving them an opportunity of hearing, shall pass his reasoned order strictly in accordance with law.

It is made clear that, this Court had not gone into the claims and rival claims of the parties to this writ petition and the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of eight weeks from the date of communication of this order. The respondent no.3 shall then communicate his reasoned order to the petitioner and the private respondents within a further period of two weeks from the date of the said reasoned order to be passed.

Depending upon the said reasoned order, the appropriate authorities shall take necessary steps to give effect to the said reasoned order forthwith, in accordance with law.

It is made clear that, this order shall not create any equity and/or right in favour of the parties to this writ petition and the

respondent no.3 shall decide the issue strictly in accordance with law with his independent mind and opinion and without being influenced by any observation made by this Court.

On the above terms, this writ petition being **WPO/170/2018** stands disposed of, without any order as to costs.

(ANIRUDDHA ROY, J.)