

OD-14

ORDER SHEET

WPO No. 801 of 2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. ALAM AHMED
Versus
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : April 10, 2023.

Appearance:
Md. Farhaduddin, Adv.
Mr. Rahul Verma, Adv.
...for the Petitioner

Mr. Alak Kr. Ghosh, Adv.
Mr. Arijit Dey, Adv.
...for KMC

Mr. Dhiraj Trivedi, Adv.
Mr. Bikash Kr. Singh, Adv.
...for the Respondent no. 5

The Court : Affidavit-of-service is taken on record.

The petitioner complains of illegal and unauthorised construction at the instance of the respondent no. 5 at premises no. 27 and 27/31, Ezra Street, Kolkata-700001. Specific complaint of the petitioner is that construction is being made without obtaining any sanction from the Corporation.

Learned Advocate representing the respondent no. 5 denies the allegation of the petitioner. It has been submitted that no construction is being made at the subject property at the instance of the respondent no. 5.

Learned Advocate for the Kolkata Municipal Corporation seeks time to take instruction in the matter.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.4 being the Executive Engineer (Civil), Building Department, Borough-V to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 24th February, 2023 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.)

sg.