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ORDER SHEET
WPO No.840 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ASLAM KADER
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 18th April, 2023.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. M. Ahmed, Adv.
...for the Petitioner.
Mr. Fazlul Haque, Adv.
...for the KMC.

Mr. Subhankar Das, Adv.
Mr. Bikram Sarkar, Adv.
Mr. Siddhartha Deb Roy, Adv.
...for the Respondent No.8.

The Court:- The petitioner complains of illegal and unauthorized construction at premises no.35/A, S. N. Chatterjee Road, Ward No.119, Borough-XIII, P.S. – Behala, Kolkata-700038.

The petitioner alleges that the construction is being made without any sanctioned plan and without maintaining the mandatory side open spaces. Complaint was lodged before the Mayor of the Corporation and other statutory authorities in February, 2023 but the same has not been considered till date.

Learned advocate representing the private respondent submits that the land over which the construction is being made is the private land of the private respondent. Construction is being made in accordance with the plan sanctioned by the Corporation.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive any 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 instant writ petition is disposed of by directing the Executive Engineer (Building), Borough-XIII, Kolkata Municipal Corporation to consider and dispose of the representation filed by the petitioner on 13.02.2023 strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioner and all other necessary parties and pass a reasoned order within a period of twelve weeks from the date of communication of this order and communicate the reasoned order to 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 13.02.2023 to the aforesaid respondent at the time of communicating the order of the Court.

Though the aforesaid representation was filed before the Mayor of the Corporation but the Executive Engineer (Building), Borough-XIII, Kolkata Municipal Corporation being the competent authority is directed to take into consideration the said representation.

Leave granted to the learned advocate-on-record of the petitioner to amend the description of the respondent no.5 in the cause title of the writ petition.

Leave granted to the learned advocate representing the private respondent to file Vakalatnama in the department in course of the day.

The writ petition stands disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)