

OD-4

ORDER SHEET

WPO No.878 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

CREATION TRACOM PRIVATE LIMITED & ANR.
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:19th April, 2023.

Appearance:
Mr. Nilay Sen Gupta, Adv.
Mr. Sujit Banerjee, Adv.
....for the Petitioners.

Mr. Biswajit Mukherjee, Adv.
Ms. Piyali Sengupta, Adv.
... for K.M.C.

Mr. Durga Prasad Dutta, Adv.
Mr. H. P. Mittal, Adv.
Mr. Sumanta Ganguly, Adv.
...for Respondent Nos.5 & 6.

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...for the State.

The Court:-The petitioners allege illegal and unauthorized construction at the instance of the private respondents. Objection filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate representing the private respondents denies the allegation of the petitioner and submits, upon instruction that, no construction work is going on at the subject premises. The premises in question is a heritage property and the same requires certain maintenance work. For repairing the old structure the private respondents approached the Executive Engineer, Building Department, Borough-VI, Kolkata Municipal Corporation to grant permission for carrying on with the work as mentioned in the application made in August, 2022. The private respondents admit that no permission has been granted by the Corporation.

It appears that the Kolkata Municipal Corporation on receipt of information regarding unauthorized construction issued a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 in April, 2023 directing the person responsible to stop construction work including addition and alternation at the premises no.29 C & D, Bentinck Street, Police Station-Hare Street, Kolkata-700069.

It has been submitted that a civil suit is pending consideration in respect of the self same property in the learned Court below.

As it appears that the objection filed by the petitioners is pending consideration before the authority and a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued, accordingly, no useful purpose will be served by keeping the writ petition pending.

The instant writ petition is disposed of by directing the Municipal Commissioner, Kolkata Municipal Corporation or his delegate to consider and dispose of the objection filed by the petitioners on 24.03.2023 strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioners 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 parties 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 objection 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the objection of the petitioners.

The petitioners are directed to forward a copy of the objection dated 24.03.2023 to the aforesaid respondent at the time of communicating the order of the Court.

Writ petition stands disposed of.

Report filed by the Officer-in-Charge of the Hare Street Police Station signed on 18.04.2023 be retained with the record.

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.)