

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1050/2023

KALPANA KOTAL
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :
THE HON'BLE JUSTICE AMRITA SINHA
Date : 15th May, 2023.

Appearance:
Mr. P.S. Deb Barman, Adv.
Mr. Amit Gupta, Adv.
...for the petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Sabnam De, Adv.
...for the KMC.

The Court : The petitioner is guilty of raising unauthorized construction. A demand notice has been issued in favour of the petitioner on 22nd March, 2023 under Sections 400(1) and 416 of the Kolkata Municipal Corporation Act, 1980, read with Kolkata Municipal Corporation Building Rules, 2009 and the Office Circular No.16 of 2021-22 dated 2nd March, 2022, intimating the petitioner that she has to deposit a sum of Rs.23,75,258/- only on account of security deposit.

The petitioner claims that she is a thika bharatiya and belongs to the economically weaker section of the society. The structure standing at B/3/H/1, Durga Charan Banerjee Street, Ward No.8, Borough-I of the Kolkata Municipal Corporation, is a thika property. The petitioner claims to be the bharatiya.

Specific submission of the petitioner is that since the property in question is a thika property, she is not the owner of the land. She is merely responsible for making the construction at the subject premises.

The Corporation at the time of assessing the security deposit to be paid by her has taken into consideration the valuation of the land in question. The petitioner submits that the same is incorrect. A representation has been filed before the Municipal Commissioner on 30th March, 2023. The petitioner alleges the same is pending consideration till date.

After hearing the submissions made on behalf of the petitioner as well as the Corporation, the Court directs the Director General (Building), Kolkata Municipal Corporation, to take a decision apropos the representation filed by the petitioner in accordance with law after giving reasonable opportunity of hearing to the thika tenant, the bharatiya, i.e. the petitioner herein and any other necessary party/parties within a period of twelve weeks from the date of communication of this order.

The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

Learned advocate for the petitioner is directed to forward to the aforesaid respondent a copy of the representation dated 30th March, 2023, the demand notice dated 22nd March, 2023, the Official Circular No.16 of 2021-22 dated 2nd March, 2022 and all other necessary documents at the time of communicating the order of the Court.

The writ petition being WPO/1050/2023 is, thus, 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.)