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ORDER SHEET
WPO No.1144 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AMITAVA DE BHOWMICK & ANR.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

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

Appearance:
Mr. Kushal Chatterjee, Adv.
Mr. Abhimanyu Bannerjee, Adv.
...for Petitioners.

Mr. Alak Kumar Ghosh, Adv.
Mr. Subhrangsu Panda, Adv.
...for KMC.

Mr. Joydeep Dhar, Adv.
...for Respondent Nos.15 to 18.

Mr. Manoj Malhotra, Adv.
Mr. Sabyasachi Mondal, Adv.
..for the State.

The Court:- The matter relates to certain construction at 52/1, Surendra Nath Banerjee Road, Ward No.-53, Borough-VI, P.S.-Taltala, Kolkata - 700014 under jurisdiction of the Kolkata Municipal Corporation.

The petitioners complain that the private respondents are guilty of raising unauthorised construction beyond the sanctioned plan. Reference has been made to the information supplied to the petitioners under the Right to Information Act that plan for reconstruction of roof under Rule 3(2)E of the Kolkata Municipal Corporation Building Rules, 2009 and under Section 410 of the Kolkata Municipal Corporation Act, 1980 was sanctioned by the department in February, 2021.

The petitioners contend that the engineers of the Kolkata Municipal Corporation issued stop work notice as unauthorised construction in deviation of the sanctioned plan was noticed by the department.

The petitioners submit that the private respondents, on the garb of reconstructing the roof, have demolished the wall and are raising construction by deviating from the reconstruction plan. The same is also apparent from the notice issued on 22.03.2022 by the Assistant Engineer (Civil)/Building Department, Borough-VI to the Officer-in-Charge, Taltala Police Station.

An objection was filed by the petitioners before the Kolkata Municipal Corporation but the same has not been considered.

Learned advocate representing the private respondents denies the allegation of the petitioners. It has been submitted that the construction work has been made in accordance with the plan sanctioned and the deviation made at the time of making construction has already been regularised by the Kolkata Municipal Corporation.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive any instruction in the matter.

Learned advocate representing the State respondents has obtained instruction from the Officer-in-Charge, Taltala Police Station. A communication dated 04.05.2023 made by the Executive Engineer [Civil], Building Department, Borough-VI of the Kolkata Municipal Corporation addressed to the Officer-in-Charge of the Taltala Police Station is annexed thereto.

It appears therefrom that the engineers of the Kolkata Municipal Corporation intimated the police that the construction work done till now at the subject premises is found in accordance to the approved reconstruction and demolition sketch plan.

From the communication of the Executive Engineer [Civil] made as late as on 04.05.2023, it does not appear that there is any unauthorised construction at the subject premises on date.

In view of the above, the allegation of the petitioners of unauthorised construction at the subject premises remains unsubstantiated.

No relief can be granted to the petitioners in the instant writ petition. The writ petition fails and is hereby dismissed.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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