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ORDER SHEET
WPO No.1320 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MERLIN PROJECTS LTD. & ORS.
-Versus-
KOLKATA MUNICIPAL CORPORATION & ANR.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:23rd June, 2023.

Appearance:
Mr. Abhrajit Mitra, Sr. Adv.
Mr. Arindam Banerjee, Adv.
Ms. Rajashree Kajaria, Adv.
Mr. Uttam Sharma, Adv.
...for the Petitioners.

Mr. Alak Kumar Ghosh, Adv.
Mr. Gurudas Mitra, Adv.
...for KMC.

The Court:-Grievance of the petitioners is that the Commissioner, Kolkata Municipal Corporation has kept the representation filed on their behalf pending for a considerable long period of time and has not disposed of the same in terms of the direction passed by this Court.

It appears that the Hon'ble Division Bench of this Court, by an order dated 20.03.2023, passed in M.A.T. 420 of 2023 with I.A. No. CAN 1 of 2023 in the matter of Merlin Projects Limited & Ors. Vs. Kolkata Municipal Corporation & Ors. was pleased to direct the Municipal Commissioner, Kolkata Municipal Corporation to consider and dispose of the representation made by the appellant on 24.12.2019.

The appellants were given liberty to rely on all such materials as they may be advised including decisions of Courts. The Court further directed that in the event the representation of the appellants is rejected or any other adverse order is passed, the same shall not be given effect to and/or

the assessment shall not be proceeded with for a period of fortnight from the date of communication of the order to the appellants. The same was to give an opportunity to the appellants to challenge any such adverse order before the appropriate forum.

It appears that in compliance of the direction passed by this Court, hearing has commenced before the Municipal Commissioner, Kolkata Municipal Corporation. The matter was heard on two occasions i.e. on 30.03.2023 when the next date of hearing was fixed on 29.04.2023 and it was again heard on 29.04.2023 and the matter was heard and adjourned till 20.05.2023. The next date of hearing is fixed tomorrow i.e. 24.06.2023.

Grievance of the petitioners is that the representation is yet to be disposed of.

Petitioners contend that the Municipal Commissioner, Kolkata Municipal Corporation should decide the representation on the basis of the documents which have already been placed before the said authority.

Learned Advocate representing the Kolkata Municipal Corporation submits that the matter is under active consideration of the Municipal Commissioner, Kolkata Municipal Corporation and the petitioners ought not to have approached this Court in the midst of the hearing process.

The Municipal Commissioner will decide the representation on the basis of the documents that may be required from the parties and the petitioners ought not to have rushed to Court to forestall the said hearing process.

It appears from the submissions made on behalf of the parties that the Court disposed of the appeal on 20.03.2023. The Municipal Commissioner, Kolkata Municipal Corporation initiated the hearing process immediately thereafter.

The matter was heard on two occasions and the Municipal Commissioner, Kolkata Municipal Corporation requires further documents for effective adjudication of the representation filed by the petitioners.

The Municipal Commissioner, Kolkata Municipal Corporation may proceed to conclude the hearing upon calling for documents/evidences that may be required for arriving at a logical conclusion of the representation filed by the petitioners. Endeavour shall, however, be taken to ensure that the representation stands disposed of at the earliest.

Since the Hon'ble Division Bench did not fix up any time frame within which the appeal is required to be disposed of, this Bench is, accordingly, not fixing up any time limit and the Municipal Commissioner, Kolkata Municipal Corporation will take a decision in the matter pursuant to the orders passed by this Court.

The parties will, however, be obliged to produce documents as may be required for effective consideration of the disputes pending consideration before the Municipal Commissioner, Kolkata Municipal Corporation.

The Court also notices that the petitioners are adequately protected by the order passed by the Hon'ble Division Bench, whereby the Court directed the Kolkata Municipal Corporation not to proceed with any adverse order, if passed, against the petitioners in the representation filed.

The writ petition stands disposed of.

Affidavit of service 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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