

OD-4

ORDER SHEET
WPO No.1433 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUBRATA PODDAR
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:24th July, 2023.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Supratik Shyamal, Adv.
Mrs. Sonali Sengupta, Adv.
..for Petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Dwijadas Chakraborty, Adv.
...for KMC.

The Court:- The petitioner claims to be one of the thika tenants of the premises No. B/6/H/2/1, Asgar Mistry Lane, Kolkata-700046, Ward No.59 Borough No.-VII under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner along with the other co-thika tenants entered into a development agreement for raising construction at the subject premises. Sanction was obtained for raising three storied residential building. The petitioner and the other co-tenants constructed two additional floors without any sanction.

The Corporation issued stop work notice and thereafter initiated steps for dealing with the unauthorized construction. The petitioner, at this stage, made an application seeking regularization of the two additional floors.

The petitioner submits that as an application has been filed before the Corporation seeking regularisation, the authorities ought not to sit tight over the matter but should have taken a decision in response to the application made.

It has been submitted that on several earlier occasions the Corporation regularized similar unauthorized additional floors constructed without any sanction and prays for identical relief. The petitioner relies upon orders passed by this Court.

I have heard the submissions made on behalf of the petitioner and perused the documents annexed to the writ petition. Admittedly, two additional floors have been constructed without any sanction. There is no supporting law pursuant to which two additional floors, constructed without sanction, may be regularized.

It appears that the petitioner being guilty of raising unauthorized construction tries to take blessings of the Court for regularization of the said unauthorized constructions.

The Writ Court under Article 226 of the Constitution of India is a high prerogative jurisdiction and ought not to be availed of for regularising constructions made illegally, without any sanction.

It is further noticed that the application for regularisation was made on 17th July, 2023 and apprehending initiation of demolition proceeding, the present writ petition has been affirmed on 19th July, 2023. The writ petition does not appear to be a bona fide one.

In view of the above, the Court is not inclined to exercise jurisdiction in the matter. The writ petition fails and is hereby dismissed.

Supplementary affidavit and affidavit of service filed in Court today are 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.)