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ORDER SHEET
WPO No.1456 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SMT. IPSITA ROY & ANR.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:1st August, 2023.

Appearance:
Mr. Subhrangsu Panda, Adv.
Ms. Ina Bhattacheryya, Adv.
Mr. Sumitava Chakraborty, Adv.
....for the Petitioners.

Mr. Barin Banerjee, Adv.
Mr. Atis Kumar Biswas, Adv.
... for the K.M.C.

The Court:-The matter relates to the premises no.72/3C/1, R. K. Chatterjee Road, Ward No.-91, Borough-X under jurisdiction of the Kolkata Municipal Corporation.

Car parking space in the ground floor of the subject premises has been converted into Mercantile (Bohor Boutique & shop) at front side and sanctioned watchman booth and toilet not constructed in the rear side. Car parking space has been converted into tenement at rear side and mandatory open spaces covered by shed in front and side.

A proceeding under Sections 400(1) & 416 of the Kolkata Municipal Corporation Act, 1980 was initiated and the Special Officer (Building) passed order on 20.03.2023.

Direction was passed to remove all the walls constructed in deviation of the sanctioned plan in the ground floor and to restore the parking space as per sanctioned plan. Walls have been directed to be removed in the rear side tenement and watchman booth and toilet to be provided as per sanctioned plan. No change

of use has been allowed. The order passed by the Special Officer (Building) was approved in MMIC meeting dated 13.05.2023.

One of the persons responsible for making construction, Neepa Chakraborty, preferred an appeal before the Municipal Building Tribunal being B.T. Appeal No. 134 of 2023.

The petitioners submit that the aforesaid Neepa Chakraborty transferred her share to the petitioners herein and, accordingly, fresh opportunity of hearing ought to be given to the petitioners prior to implementing the order of demolition.

The aforesaid submission of the petitioners cannot be accepted in view of the fact that the person responsible for making construction was duly heard and the person responsible being aggrieved by the order preferred an appeal before the Municipal Building Tribunal.

Assuming Neepa Chakraborty transferred her share to the petitioners, then in that case the petitioners have merely stepped into the shoes of Neepa Chakraborty and will carry on the proceedings from there onwards. There is no scope to revert back and grant further opportunity of hearing to the petitioners. If the same is done, then a proceeding can never be concluded as there may be series of transfers during the pendency of the proceeding.

The moment there is transfer of interest, the transferee steps into the shoes of the transferor and the transferee is to carry on the proceedings forward from that stage.

As such, there is no scope to grant further opportunity of hearing to the petitioners. It will be open for the petitioners to take appropriate necessary steps before the statutory appellate forum where the appeal is pending consideration.

The writ petition stands disposed of.

Instruction forwarded by the engineers of the Kolkata Municipal Corporation be retained with the records.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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