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ORDER SHEET
WPO No.1471 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

EMMA MALHOTRA (NEE JEREMIAH)
-Versus-
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:8th August, 2023.

Appearance:
Mr. Biswajib Ghosh, Adv.
Mr. Anuj Singh, Adv.
Mr. Abhishek Agarwal, Adv.
Mr. Amir Ali, Adv.
...for the Petitioner.

Mr. Subhrangsu Panda, Adv.
Mrs. Ina Bhattacheryya, Adv.
...for KMC.

Mr. Vivek Basu, Adv.
...for the State.

The Court:- The matter relates to certain unauthorized construction at premises No.4, Sunyat Sen Street, Kolkata- 700012, Borough-V of the Kolkata Municipal Corporation.

The petitioner alleges that the private respondent is raising a boundary wall without maintaining the mandatory side open spaces. Further allegation is that several unauthorized constructions have been carried out at the subject premises without obtaining any sanction from the Corporation.

An objection was filed on behalf of the petitioner in June, 2023. The same is alleged to be kept pending.

Learned advocate representing the Corporation submits, upon instruction that, there is an earlier order of demolition passed in respect of the subject premises which was carried in appeal before the Municipal Building Tribunal and thereafter before this Hon'ble Court. Order was passed for deposit of certain amount before the Corporation.

Learned advocate is not, however, aware as to whether the amount was deposited or not.

None appears for the private respondent no.8, despite service.

As it appears that the objection filed on behalf of the petitioner alleging unauthorized construction is pending consideration at the end of the Corporation, accordingly, no useful purpose will be served by keeping the writ petition pending.

The instant writ petition is disposed of by directing the Executive Engineer (Building), Borough-V, Kolkata Municipal Corporation to conduct spot inspection of the property upon giving prior notice to all the necessary parties to ascertain the nature and extent of the unauthorized construction alleged by the petitioner.

The engineers shall specifically inspect as to whether the mandatory side open spaces have been maintained or not.

Report of the spot inspection shall be circulated amongst the parties. An opportunity of hearing shall be given thereafter and a reasoned order be passed upon hearing the parties.

If it appears that unauthorized construction exists at the subject premises, necessary steps shall be taken by the competent authority to deal with the same.

The entire exercise shall be conducted at the earliest, but positively concluded within a period of twelve weeks from the date of communication of this order.

The aforesaid respondent is restrained from entering into or deciding any private dispute in between the parties and consideration shall be restricted only with regard to allegation of unauthorized construction.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the objection filed on behalf of the petitioner.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 05.06.2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court today is 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.)

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