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ORDER SHEET
WPO No.1575 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ROWINA NANDINI MEHROTRA & ORS.

-Versus-

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:14th September, 2023.

Appearance:

Mr. Ratnesh Kumar Rai, Adv.

Mr. Yash Singhi, Adv.

Ms. Vipra Gang, Adv.

...for Petitioners.

Ms. Koyeli Bhattacharyya, Adv.

Ms. I. Bhattacharyya, Adv.

...for KMC.

Mr. Sunil Kumar Singhanian, Adv.

Ms. Kalpana Singhanian, Adv.

...for Respondent no.5.

Mr. Suddhasatva Banerjee, Adv.

Mr. Soorjya Ganguli, Adv.

Ms. Pooja Chakrabarti, Adv.

Ms. Radhika Misra, Adv.

Ms. Arti Bhattacharyya, Adv.

Ms. Devanshi Prasad, Adv.

..for Respondent no.6.

Mr. Sabyasachi Sen, Adv.

Mr. Deb Kumar Sen, Adv.

...for Respondent nos.7 & 8.

The Court:-The petitioners complain of illegal and unauthorized construction at premises no.22, Sarat Bose Road, Ward No. 69, Borough - VIII under jurisdiction of the Kolkata Municipal Corporation.

The petitioners complain that plan was sanctioned for raising construction of a residential building. The developer constructed the building prior to the year 2010-11. Ground floor was sanctioned for car parking space but the same has been illegally converted to commercial shop room.

Presently, constructions are being made in the said premises in such a manner that the structural stability of the structure is at stake.

Complaint was lodged before the Kolkata Municipal Corporation.

The petitioners allege that the said complaints were not acted upon.

Learned advocate representing the private respondents denies the allegation of the petitioners.

Respondent nos.7 & 8 submits that they were the developers of the said property. After development of the same, they sold their allocated portions long back. At present, they are no way related with the construction that is alleged to be made.

Learned advocate representing the respondent no.5 submits that the property was sold long back by his client in favour of one Rajendra Agarwal. The respondent no. 6, at one point of time, was the tenant of the respondent no. 5. Respondent no.6 is also presently not running its business from the said premises. The same has been sold in favour of one Sarika Tiwari.

A report has been filed by the engineers of the Kolkata Municipal Corporation. It appears therefrom that the Corporation sanctioned a residential building plan for construction of G + IV storied building in the year 2007. The same was modified/regularized twice on 05.05.2010 and 17.09.2011. Completion plan and the completion certificate was issued on 20.09.2011.

Ground floor of the subject structure was sanctioned as car parking space. First floor was sanctioned as show room and 2nd to the 4th floors was sanctioned as residential flats. A portion of the ground floor was sanctioned as 'entrance lobby for show room' without any walls.

On inspection, it has been found that 2nd and 3rd floor is now being used as office, changing from the original sanctioned plan. The entrance lobby for show room is covered by brick walls. There are shop rooms running since few years. Constructional activities have been found like replastering and reflooring etc.

The Corporation has issued notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 with intimation to Ballygunge Police Station. Further action under Sections 400 & 416 of the Kolkata Municipal Corporation Act, 1980 will be taken as per the departmental procedure.

On hearing the submissions made on behalf of all the parties and upon perusal of the report filed by the engineers of the Corporation, it appears that unauthorized construction has been detected at the subject premises. The Corporation has initiated action in response to the complaint lodged by the petitioners.

The concerned Executive Engineer of the Kolkata Municipal Corporation is directed to take prompt necessary steps to deal with the unauthorized constructions that have been detected at the subject structure, after giving a reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of twelve weeks from the date of communication of this order. A reasoned order shall be passed and communicated to all the parties.

Officer-in-Charge, Ballygunge Police Station is directed to keep strict vigil over the subject property and ensure that construction in any manner whatsoever is not carried out at the subject premises.

Writ petition stands disposed of.

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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