

WPO No.1604 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

FORTUNE ENTERPRISES PRIVATE LIMITED & ANR.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 27th September, 2023.

Appearance:
Mr. Arindam Banerjee, Adv.
Ms. Sinthia Bala, Adv.
Ms. Easha Manchanda, Adv.
...for Petitioners.

Mr. Srijan Nayak, Adv.
Ms. Rituparna Maitra, Adv.
... for KMC.

Mrs. Manju Agarwal, Adv.
Mr. Rishi Agarwal, Adv.
...for Respondent No.9.

Mr. Suman Sengupta, Sr. Govt. Adv.
Mr. Saikat Chatterjee, Adv.
Mr. Sanatan Panja, Adv.
...for State.

The Court:- The petitioners complain of illegal and unauthorized construction at premises No. 6, Dr. Martin Luther King Sarani (formerly 6, Wood Street), P. S.- Shakespeare Sarani, Kolkata-700016, Ward No.-63, Borough-VII under the jurisdiction of the Kolkata Municipal Corporation.

The private respondent admits that the structures at the aforesaid premises are quite old. According to the petitioners, the present construction in question is brand new.

A report has been placed before this Court signed by the Executive Engineer (Civil)/Building/Borough-VII dated 23.09.2023 which mentions that spot inspection was held on 22.09.2023. It revealed that a two storied very old building along with four shop rooms, a restaurant and a 125 mm. thick brick wall of 1.80 mt. height adjacent to the boundary wall on the eastern side, exists in the subject premises. The front open space of the building up to the boundary wall on the eastern side is covered up with a C.I shed and it is used by the aforesaid restaurant.

It was found that renovation work was going on in the already existing C.I shed in the front side of the building.

The petitioners in their legal representation filed before the Corporation on 30th July, 2023 have given the details of the alleged unauthorized construction.

Learned advocate representing the petitioners submits that the inspection in question was not conducted upon prior notice and, accordingly, it was not possible for the petitioners to highlight the illegality in the construction being made.

Notice of spot inspection was also not served upon the private respondent.

To ascertain the extent and nature of unauthorized construction, the Executive Engineer (Civil)/ Building/ Borough-VII of the Kolkata Municipal Corporation is directed to conduct a further spot inspection upon prior notice to both the parties.

Copy of the report of spot inspection shall be supplied to the parties. An opportunity of hearing shall be granted to both the parties thereafter and a decision shall be taken as to whether the construction in question is unauthorized or not.

If it transpires that the unauthorized construction exists, necessary steps shall be taken to deal with the same in accordance with law.

It is made clear that the Executive Engineer (Civil)/ Building/ Borough-VII of the Kolkata Municipal Corporation will not enter into the private rights of the parties and will restrict consideration only with respect to unauthorized construction.

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

Both the parties will be entitled to urge points supported by relevant documents before the Executive Engineer (Civil)/ Building/ Borough-VII of the Kolkata Municipal Corporation at the time of hearing.

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

Since the writ petition is being disposed of without calling for any affidavits, the allegations made therein are deemed not to have been admitted by the respondents.

Instruction forwarded by the Executive Engineer (Civil)/ Building/ Borough-VII of the Kolkata Municipal Corporation be retained with the record.

Writ petition stands disposed of.

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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