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ORDER SHEET
WPO No.1614 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDIDE

SMT. CHANDANA SAHA
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:26th September, 2023.

Appearance:
Ms. Sayani Das, Adv.
Mr. Varun Kothari, Adv.
Ms. Sreetama Biswas, Adv.
..for Petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Subhrangsu Panda, Adv.
...for KMC.

Mr. Srinjoy Das, Adv.
Mr. Victor Chatterjee, Adv.
Mr. Sumit Kr. Dey, Adv.
...for Respondent nos.6,7& 8.

The Court:-The petitioner complains of illegal and unauthorized construction at the behest of the private respondents on the second floor of the multistoried building at premises no. 35, A.P.C. Road, Ward-49, Borough-IV & V of the Kolkata Municipal Corporation.

The petitioner admits that a plan was sanctioned in favour of the private respondents for raising construction. However, the same is only restricted to reconstruction of the roof in terms of Rule 3(2) of the Kolkata Municipal Corporation Building Rules, 2009.

According to the petitioner, construction is being made in violation of the plan sanctioned by the Corporation. Objection filed before the Kolkata Municipal Corporation is pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that construction is being made in accordance with the plan sanctioned.

It appears that a civil suit between the petitioner and the private respondents is pending consideration before the learned City Civil Court at Calcutta being Title Suit No.697 of 2023, wherein an order of injunction has been passed restraining the defendants (Smt. Chandana Saha & Anr.) and their men and agents from obstructing forcefully the lawful modification work in the suit premises and also restrained the defendants from disconnecting the waterline, installation of drainage and sewerage system in the suit premises.

Without entering into the merit of the allegation of the petitioner, as it appears that an objection alleging unauthorized construction is pending consideration at the end of the Corporation, accordingly, the Executive Engineer (Civil)/ Building Department, Borough- IV & V is directed to cause a spot inspection to ascertain as to whether any unauthorized construction is going on and whether the construction that is being made is in accordance with the plan sanctioned by the Corporation. Inspection shall be conducted upon prior notice to all the parties. An opportunity of hearing shall be provided to the parties to produce documents in support of their claim.

A reasoned order shall be passed at the earliest, but positively within a period of twelve weeks from the date of communication of this order and the reasoned order shall be communicated to the parties immediately thereafter.

Learned advocate representing the petitioner is directed to forward a copy of the representation dated 13.05.2023 along with supporting documents to the aforesaid respondent at the time of communicating the order of the Court.

It is made clear that this Court has not entered into the merit 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 representation filed by the petitioner.

The instant order is being passed only with the view to ensure that the construction is being made in accordance with the municipal laws and the same ought not to have any bearing on the merit of the civil suit. The learned civil court may proceed to decide the civil suit on merits.

Writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

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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