

WPO No.1689 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PARTHA PRATIM BRAHMA
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:13th October, 2023.

Appearance:
Mr. Biplab Rangan Bose, Adv.
Mr. Indranil Chandra, Adv.
...for Petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
Ms. Susmita Chatterjee, Adv.
... for KMC.

Mr. Chanchal Kumar Dey, Adv.
Mr. Diganta Sikdar, Adv.
...for Respondent Nos. 5 & 6.

Mr. Debjit Mukherjee, Adv.
Ms. Kalpita Paul, Adv.
...for State.

The Court:-The petitioner alleges illegal and unauthorized construction at 22/1, Diamond Harbour Road, Kolkata-700053 under Borough-X of the Kolkata Municipal Corporation at the behest of the private respondents.

Specific submission is that the construction is being made without a valid sanctioned plan. Objection filed against such unauthorized construction is yet to be disposed of.

Learned advocate representing the private respondents admits that the construction is being made without a valid sanctioned plan. Alibi is that, none in the locality has raised construction with a sanctioned plan and, accordingly, there is nothing wrong on the part of the private respondents to raise construction without a sanctioned plan.

Submission made on behalf of the private respondents is absolutely illegal and cannot be accepted. Law does not permit construction to be made without a valid sanctioned plan. Illegality cannot be permitted to be perpetuated for eternity. The Corporation is liable to take immediate necessary steps against the unauthorized construction.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition is pending.

The instant writ petition is disposed of by directing the respondent No.3 being Executive Engineer (Civil)/Building Department/Borough-X, Kolkata Municipal Corporation herein to consider and dispose of the representation dated 27th September, 2023 filed by the petitioner strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioner and all other necessary parties and pass a reasoned order within a period of twelve weeks from the date of communication of this order and communicate the reasoned order to the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

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 representation of the petitioner.

Learned advocate representing the petitioner is directed to forward a copy of the representation dated 27th September, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Leave granted to the learned Advocate-on-record of the petitioner to correct the description of the respondent No.3 in the cause title of the writ petition.

The writ petition stands disposed of.

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

Report signed on 10.10.2023 filed by the Officer-in-Charge, New Alipore Police Station 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.)

nm