

WPO No.1698 of 2023  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

REKHA KUNDU & ANR.  
VERSUS  
THE STATE OF WEST BENGAL & ORS.

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

Appearance:  
Mr. Ashok Kumr Roy, Adv.  
Mr. Sutanu Chakrabarti, Adv.  
Mr. Anirban Roy, Adv.  
...for Petitioners.

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

Mr. Manish Paul, Adv.  
...for Respondent.

Ms. Tapati Samanta, Adv.  
...for State.

The Court:-The petitioners allege illegal and unauthorized construction at 20/32C, Biplabi Barin Ghosh Sarani, Ward No. 32, Borough-III, P.S.-Manicktala, Kolkata-700067 at the behest of the private respondent Muraripukur Jubak Sangha Club.

Reference has been made to the decree dated 01.02.2019 passed by the learned Civil Judge, Junior Division 2<sup>nd</sup> Court, Sealdah in Title Suit No.281 of 2015, wherein the learned Court was pleased to pass a decree of declaration and permanent injunction and declared that the defendants do not have any right to interfere with the erection of the boundary wall of the scheduled property. The defendants and their agents were also restrained from disturbing and interfering with the peaceful possession and enjoyment of the scheduled property by the petitioner herein.

Complaint was lodged before the Executive Engineer but the same did not yield any result.

Learned advocate representing the Club denies the allegation of the petitioner. It has been submitted that the decree was not obtained against Muraripukur Jubak Sangha Club. It has further been denied that any construction has been made at the instance of the said club.

Learned advocate representing the Corporation is yet to receive any instruction as to whether any construction is made at the subject premises.

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.4 being Executive Engineer (Civil)/Building Department/Borough-III, Kolkata Municipal Corporation herein to consider and dispose of the representation dated 10<sup>th</sup> 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate representing the petitioners is directed to forward a copy of the representation dated 10<sup>th</sup> September, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

As the learned Civil Court passed decree declaring the right of the petitioners and restrained the defendants from interfering with peaceful

possession and enjoyment of the scheduled property, accordingly, the Officer-in-Charge, Manicktala Police Station is directed to keep strict vigil over the subject property at 20/32C, Biplabi Barin Ghosh Sarani, Ward No. 32, Borough-III, P.S.- Manicktala, Kolkata-700067 and ensure that construction in any manner whatsoever at the instance of the private respondent is not carried out in the subject premises.

The writ petition stands disposed of.

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

Report signed on 12.10.2023 filed by the Officer-in-Charge, Manicktala 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.)

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