

WPO/1836/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GREAT EASTERN RETAIL PRIVATE LIMITED
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 13th December, 2023.

Appearance:

Mr. Prabal Mukherjee, Sr. Adv.

Mr. Indrajit Bhattacharjee, Adv.

Mr. Moloy Roy Chowdhury, Adv.

...for the petitioner

Mr. Biswajit Mukherjee, Adv.

Ms. Manisha Nath, Adv.

...for the K.M.C.

Mr. Joydeep Kar, Sr. Adv.

Mr. Arijit Bardhan, Adv.

Mr. Gopal Chandra Halder, Adv.

Mr. Sourajit Dasgupta, Adv.

Mr. S. Misra, Adv.

Mr. A. Rakshit, Adv.

...for the respondent no.5

Mr. Debjit Mukherjee, Adv.

Mrs. Kalpita Paul, Adv.

...for the State

The Court: The petitioner has approached this Court seeking a direction upon the Kolkata Municipal Corporation to consider the representation filed before the Corporation for cancellation of the building sanctioned plan on the ground that the same was obtained by practicing misrepresentation and fraud.

The private respondent no.5 claims ownership of the subject premises, that is, 11, Rowland Road, Kolkata – 700020, Borough - VIII of the Kolkata Municipal Corporation. A declaratory suit in between the parties is pending consideration before the learned Civil Court. The Suit concerns land measuring one cottah and odd over which the petitioner claims ownership.

The conveyance deed of the petitioner is annexed to the writ petition and it has been pointed out by the learned counsel representing the respondent no. 5 that the disputed portion was not at all sold.

The learned Civil Court is to decide the ownership of the disputed portion of the subject premises. The petitioner submits that the disputed portion has been shown in the site plan by the private respondent for obtaining the sanctioned plan. It has been submitted that if the sanctioned plan is permitted to be acted upon and construction is made, then the effect will be irreversible.

Learned advocate representing the Corporation submits that at this stage it will not be possible for the Corporation to decide the issue as the dispute is with regard to the portion which is already under consideration in the Title Suit.

The petitioner has a further complaint. It has been submitted that trees are being felled illegally. The private respondent submits that the trees are being felled pursuant to the order passed by the Kolkata Municipal Corporation and the forest department. It has been brought to the knowledge of the Court that a separate writ petition with regard to the felling of the trees has been filed at the instance of one Meghdoot Cooperative Housing Society Ltd. and an order was passed by a coordinate Bench of this Court on 25th October, 2023 in WPO No.1718 of 2023. I have perused the said order passed on 25th October, 2023. It appears that the Court was pleased to direct the parties to file affidavit-in-

opposition and the matter has been directed to appear before the appropriate Bench. Fact remains that the trees in question also falls within the disputed one cottah and odd portion of land.

I am of the considered opinion that it will not be proper to direct the Corporation to decide the grievance raised by the petitioner in the representation at this stage. The parties will be at liberty to approach the Corporation only after the declaration of right, title and interest in respect of the disputed portion of the subject property by the learned Civil Court. It is open to the parties to approach the learned Court where the Suit is pending for necessary relief, if so advised.

The writ petition stands disposed of.

Let the report filed by Ballygunge Police Station, signed by the Officer-in-Charge on 12th December, 2023 be retained with the records.

(AMRITA SINHA, J.)