

09. 07.03.2024
bd. Ct.15

W.P.A. 5442 of 2018

Exceptional Infraprojects Private
Limited & Anr.

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. Arindam Banerjee
Mr. Rachit Lakhmani
Mr. Nikunj Berlia ... for the petitioners.

Mr. Achintya Kumar Banerjee
Mr. Gopal Chandra Das ... for the KMC.

Mr. Amal Kumar Sen
Mr. Lalmohan Basu ... for the State

In the writ petition order passed by the Joint Municipal Commissioner (General) which has been communicated vide letter dated 18th September, 2017 is under challenge. On perusal of the said order it appears that the concerned authority of Kolkata Municipal Corporation on consideration of joint inspection report of concerned Block Land and Land Reforms Officer, Assessment Collection Department and Building Department found that the premises having holding No. 9/1, under Ward No. 109 Borough-XII under R.S. Plot No. 126 J.L. No. 21, Mouza- Barakhola, situates at vested land. A proceeding was drawn up under section 397 of the Kolkata Municipal Corporation Act, 1980 and it was found that there was material misrepresentation while furnishing details in terms of section 393 and as such sanctioned plan was obtained in connection with the land in question without disclosing that the land vests with the State

Government. As a sequel to the order communicated vide Memo dated 18th September, 2017 Assessment Department of the KMC was directed to take steps for cancellation of mutation of the building and to correct the record accordingly. Consequently, the sanctioned plan which was accorded in favour of the petitioners was withdrawn.

During course of hearing in consideration of the submission made by the learned advocate representing the petitioners direction was given upon the concerned Block Land and Land Reforms Officer, Kolkata, South 24 Parganas to submit a report in order to demonstrate whether the aforesaid land comes under the part of land which vests with the State Government. Since the land situates under R.S. Plot No. 126 of Mouza-Barakhola and the total area of the entire land was 29.82 acres out of which 15.09 acre was vested. Pursuant to the direction of this Court the concerned Block Land and Land Reforms Officer submitted a report dated 6th February, 2024 enclosing the sketch map and relevant part of record of rights which were taken on record on 29th February, 2024. Today matter has been fixed for final consideration when on perusal of the sketch map annexed to the report of the concerned Block Land and Land Reforms Officer it appears that the land of the petitioners comes under the vested part of the land in question. Therefore the order passed by the Joint Municipal Commissioner (General) on conclusion of the proceeding under section 397 should not be interfered with.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioners to take steps in accordance with law, if so advised.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)