

Item No.129
16.01.2024
Court. No. 24
GB

W.P.A. 7699 of 2022
With
CAN 2 of 2023

Sri Bimal Kumar Das & Anr.
Vs.
The Kolkata Municipal Cororation & Ors.

Mr. Debabrata Roy,
Mr. Swarvanu Saha

...for the Petitioners.

Mr. Somnath Ganguli

...for the State.

Mr. Biswajit Mukherjee,
Mrs. Sima Chakraborty

...for the K.M.C.

The petitioners claim to be the owners of a portion of the premises no. 2/85 Sucheta Nagar – 2, under Ward No.105, Borough No.12 of the Kolkata Municipal Corporation.

The Deputy Chief Engineer Building (South) took note of the unauthorized construction made at the subject premises and passed order permitting regularization subject to payment of necessary charges. A demand notice dated June 6, 2017 was issued demanding payment of a sum of Rs.3,25,290/- only on account of regularization of the unauthorized construction, sketch fee for unauthorized construction and labour welfare cess on building sanction plan. The due date for payment was June 26, 2017.

The payment not being done, the Corporation initiated steps for demolition of the unauthorized structure.

After proceeding with the hearing of the instant writ petition, it has been submitted by the learned advocate

representing the petitioners that his clients are ready and willing to pay the charges for regularization of the unauthorized construction.

It has been submitted that at present there are four owners of the subject premises. The Corporation may apportion the regularization fee between all the owners and the petitioners are agreeable to pay their share for regularizing the unauthorized construction.

Learned advocate representing the Corporation submits that the demand notice indicating the charges for regularization of the unauthorized construction was raised long back. None came forward to deposit the demanded amount. The Corporation accordingly proceeded to demolish the unauthorized construction.

It has, however, been submitted that at present demolition process has been stalled as per the order passed by the Director General (Building).

As it appears that the construction in question is yet to be regularized and the demolition proceeding has been temporarily stalled, accordingly, the Deputy Chief Engineer Building (South) is directed to conduct a spot inspection to ascertain the extent and nature of unauthorized construction and thereafter raise the demand notice by apportioning the demanded amount in between the owners of the subject premises. The owners shall be severally liable to pay the charges for regularization of the unauthorized construction. Payment made by each of the owners shall be treated as the regularization charges in respect of the portion owned by the

said owner. The portion in respect of which the payment will not be made shall remain unauthorized and it will be open for the Corporation to take necessary steps to deal with the same in accordance with law.

Spot inspection shall be conducted by the Executive Engineer Building, Borough – XII upon prior notice to all the parties, positively by February 2, 2024. Thereafter, the assessment of the charges for regularization shall be made by the Deputy Chief Engineer Building (South) upon giving an opportunity to the respect parties. The demand shall be intimated to the parties immediately thereafter.

It will be open for the parties to rely upon all documents in support of their respective stand at the time of hearing.

The Deputy Chief Engineer Building (South) shall take a decision in the matter at the earliest but positively by February 29, 2024.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Amrita Sinha, J.)