

03 & 23
02.01.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 10778 of 2022

**Hussain Rizwi
-versus
The Kolkata Municipal Corporation & Ors.**

With

W.P.A. 24263 of 2023

**Md. Akif
-versus-
The Kolkata Municipal Corporation & Ors.**

**Mr. Subhojit Seal.
...For the Petitioner.**

**Mr. Atish Biswas,
Ms. Susmita Chatterjee.
...For KMC.**

**Mr. Kallol Basu,
Mr. Suman Banerjee.
...For the Private Respondents.**

The petitioner in both the writ petitions allege that the private respondents are raising illegal and unauthorized construction in such a manner that the private land of a school is being encroached upon.

The construction in question is being carried on over premises no.39/1, Sir Syed Ahammed Road, Ward No. 54, Borough-VI of the Kolkata Municipal Corporation.

The petitioner complains that the objection filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate appearing for the private respondents submits that the petitioner has not specified the details of the unauthorized construction that has been alleged to be made at the behest of the private respondents.

It is the specific stand of the private respondents that the construction is being made strictly in accordance with the plan sanctioned by the Corporation.

Learned advocate appearing for the Corporation has relied upon a report signed by three engineers of the Corporation on 19th December, 2023. The report mentions that the subject premises was inspected and it was found that there is a four storied newly constructed building standing thereon. The construction work is in progress. Corporation sanctioned a building plan for erection of four storied building of height 12.45 metre.

The premises where the construction is being made is situated adjacent to the Kolkata Improvement Trust which is well butted and bounded by a boundary wall. The plot of the Kolkata Improvement Trust is fully vacant at present.

From the submissions made on behalf of the parties and upon perusal of the report forwarded by the engineers of the Corporation, it appears that the allegation of unauthorized construction made by the petitioner remains unsubstantiated.

The allegation of encroachment that has been made by the petitioner cannot be decided by the Corporation.

The petitioner ought to approach the appropriate civil forum for declaration of proper right in respect of the portion which the petitioner claims to have been unauthorizedly encroached upon by the private respondents at the time of raising construction.

Let copy of the report filed by the engineers of the Corporation be handed over to the learned advocate appearing for the respective parties for taking further steps in the matter if permissible in law.

The writ petitions stand disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)