

59. 08.01.2024  
bd. Ct.15

W.P.A. 10535 of 2011

Oriental Nirman Pvt. Ltd. & Anr.

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. Srijib Chakraborty

Mr. S. Dasgupta

Mr. Ashis Kumar Mukherjee

Mr. S.Prasad ... for the Petitioners.

Mr. Dipankar Mallick

Mr. Mritunjay Saha ... for the respondent no.6.

Mr. Ashoke Kumar Banerjee

Mr. Atis Kumar Biswas ... for the KMC

The writ petition has been instituted praying for demarcation of the premises situated at 49A, and P-25 (49) Prince Golan Mohammed Shah Road, Kolkata- 700045 and the writ petition is also directed against the building sanctioned plan being no. 154 dated 4<sup>th</sup> August, 2010 accorded in favour of private respondent no. 6.

Mr. Chakraborty, learned advocate representing the petitioners submits that without proper demarcation of the aforesaid two premises the building plan dated 4<sup>th</sup> August, 2010 ought not to have been sanctioned in favour of the respondent no. 6 permitting him to raise construction.

KMC is represented by Mr. Ashoke Kumar Banerjee, learned senior advocate and respondent no. 6 is also represented today.

According to respondent no. 6 in connection

with premises No. P-25(49) Prince Golam Mohammed Shah Road, Kolkata- 700045, plan has been sanctioned dated 4<sup>th</sup> August, 2010 which is owned by the respondent no. 6; therefore, there is no discrepancy with regard to sanctioned plan in favour of the respondent no. 6.

Mr. Banerjee, representing KMC submits that the issue hinges on demarcation of the aforesaid two premises and identification thereof which is required to be adjudicated by the appropriate civil court while deciding inter-se disputes between the petitioners and respondent no. 6, therefore appropriate remedy lies before the civil court.

Having considered the submissions made on behalf of the parties to this writ petition it appears that petitioners have ventilated grievances relating to according sanctioned plan dated 4<sup>th</sup> August, 2010 in favour of the respondent no. 6 in connection with the premises no. P-25(49) Prince Golam Mohammed Shah Road, Kolkata- 700045, without demarcating the two premises namely 49A and P-25(49) Prince Golam Mohammed Shah Road, Kolkata- 700045. It has also been submitted during course of hearing on behalf of the petitioners that the right of the petitioners over premises no. 49A is fortified by a decree passed by a civil court.

Considering the contentions raised on behalf of the petitioners this Court disposes of this writ petition by directing the KMC to initiate a proceeding under section 397 in order to verify whether the plan which was accorded in favour of

the respondent no. 6 dated 4<sup>th</sup> August, 2010 was rightly sanctioned or not. Before concluding such proceeding petitioners as well as respondent no. 6 shall be given opportunity to make deliberations before the concerned authority of KMC in order to demonstrate their right over their respective properties. The concerned authorities of KMC shall be at liberty to demarcate the aforesaid two premises before taking decision on the fate of the sanctioned plan dated 4<sup>th</sup> August, 2010 which has been accorded in favour of the respondent no. 6 and pass a final order within a period of 16 weeks from the date of communication of this order.

However, there shall be no order as to costs.

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

**(Saugata Bhattacharyya, J.)**