

D/L
Item No. 11
06.06.2024
KOLE/SKB

WPA 15153 of 2024

Smt. Krishna Rani Das @ Krishna Das
-Vs.-
The Kolkata Municipal Corporation & Ors.

Mr. Argha Banerjee,
Mr. Sibnath Ganguly,

...for the petitioner.

Mr. Gopal Chandra Das,
Mr. Atis Kumar Biswas

...for the KMC.

Affidavit of service filed in court today is taken on record.

Mr. Argha Banerjee, learned Counsel appears for the petitioner and Mr. Gopal Chandra Das, learned Counsel, appears for the respondent nos. 1 to 4/Kolkata Municipal Corporation.

The respondent no. 5 is not represented.

Drawing attention to a representation dated November 21, 2023, Annexure "P-4" at page 20 to the writ petition, learned Counsel for the petitioner submits that the private respondent no. 5 has carried out an alleged unauthorized and illegal construction at the subject premises mentioned in the said representation. He submits that the said representation has not yet received attention of the respondent no. 3.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent no. 3 upon issuing a prior hearing notice at least

seven days to the petitioner and the respondent no. 5 shall decide the representation dated November 21, 2023 as referred to above after giving them an opportunity of hearing and by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no. 3 positively within a period of six weeks from the date of communication of this order. The respondent no. 3 then shall communicate the reasoned order to the petitioner and the respondent no. 5 positively within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that this court has not gone into merits of the claim of the petitioner in any matter. The petitioner and the respondent no. 5 shall be at liberty to urge whatever points they wish to urge before the respondent no. 3 by relying upon whatever documents and records they want to rely upon.

It is further made clear that this order shall not create any right or equity in favour of the petitioner in any manner, if the petitioner is not eligible to receive his claim strictly in accordance with law.

In the event, the reasoned order goes in faovur of the petitioner, then the Corporation Authority shall take all steps to remove and demolish the unauthorized and illegal construction, if is found at the subject premises, in accordance with law but positively within a period of four weeks from the date of the said reasoned order to be communicated to the petitioner and the respondent no. 5.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

The respondent no.3 and/or the appropriate authority of the Municipal Corporation shall be free to cause necessary inspection and survey at the subject premises to come to its logical conclusion, if necessary.

If any civil suit is pending *inter se* parties, this order shall have no effect or bearing therein and the jurisdictional Civil Court shall proceed without being influenced by any observation made herein.

The petitioner shall serve a copy of this order upon the respondent no. 5 and shall produce the proof of service before the respondent no. 3 in course of hearing.

With the above observations and directions, this writ petition being **WPA No. 15153 of 2024** stands disposed of without any order as to costs.

(Aniruddha Roy, J.)