

10.04.2024

**Sl. No. 14
Ct. No. 655
Srimanta**

WPA/15180/2023

Smt. Krishna Banerjee & Ors.

-Vs.-

The Kolkata Municipal Corporation & Ors.

Mr. Arnab Roy,
Mr. Satyam Mukherjee,
Ms. Sayani Ahmed,
Mr. Purnendu Shekhar Ghosh

...for the petitioners.

1. The instant application is filed by the petitioner against the private respondents with a prayer for passing an order so that the authorities may take immediate and proper step as per complaint made by the petitioners on 16th June, 2023.
2. Despite service effected upon the respondents, they did not venture to appear and contest the present application.
2. The present petitioners were the permanent residents and owners of a building situated at 67A, Shyama Prasad Mukherjee Road under Police Station – Tollygunge, Kolkata – 700 026 under Ward No. 84 of the Kolkata Municipal Corporation. It is stated by the petitioners that the adjoining property owners constructed a multi-storied building at Premises No. 129/C, Monohar Pukur Road, Ward No. 84, Borough – VIII under Police Station– Tollygunge after demolishing the old structure existed thereon. Due to such constructional work it caused substantial damage of the premises of the petitioners. It is further submitted that due to negligence of the developer hazardous debris and other waste has accumulated in the passage and staircase of the house of the

petitioners and it caused obstruction of the ingress and egress of the residents of the said building. The builder/developer has failed to take appropriate safety measures prescribed by the Kolkata Municipal Corporation and as a result bricks and other construction materials are regularly falling from the construction site on the passage of the house which has become a serious threat to the safety of the present petitioners. Due to such inconvenience a representation was made before the appropriate authority for taking steps with a prayer for further action to be taken including the stopping of the constructional work by issuance of stop work notice thereof. The said letter was duly received by the respondent nos. 3, 4 and 5 on 19th June, 2023 but no step has yet been taken.

3. Finding no such alternative the present writ petition has been filed before this Court with a prayer for passing appropriate order. From Annexure – P/9, i.e. the representation made by the petitioners before the authority concerned to redress the grievances it appears that the prayer has been made before the authority to take appropriate step for stopping this kind of work which causes nuisance at the premises in question. It further appears that despite the representation has been made before the authority no step has been taken by it to redress the grievances of the petitioners and due to non-action of the authority concerned the alleged construction has been going on deliberately and willfully violating the provision of law.

4. Accordingly, the opposite party no. 4, the Executive Engineer, Building Department within Borough – VIII, Kolkata Municipal Corporation is hereby directed to consider and dispose of the

application dated 16.06.2023 addressed to the Kolkata Municipal Corporation by the petitioners within four weeks from the date of communication of this order strictly in accordance with law.

5. A spot inspection shall be conducted to ascertain the nature and extent of allegation as made by the petitioner. In the event the aforesaid respondent is of the considered opinion that construction is being carried on without any adherence to relevant Act and Rule then necessary step shall be taken to deal with such construction immediately.

6. The opposite party no. 4 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the application filed by the petitioners.

8. The aforesaid respondent shall restrict the consideration of the representation of the petitioner with regard to construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

9. The petitioner is directed to forward a copy of the representation to the aforesaid respondent at the time of communicating the order of the Court.

10. All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the authority

11. The opposite party no. 4 is further directed to take appropriate step so that no further damage is caused in the meantime in respect of the premises in question.

12. Accordingly, WPA/15180/2023 stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Prasenjit Biswas, J.)