

03.10.2024
Sl.No.13&14
Ct. No.15
S.A.

WPA 22899 of 2024

Anjan Kumar Saha

-vs-

The Kolkata Municipal Corporation & Ors.

With

WPA 19773 of 2024

Soumitra Chatterjee

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. Bikram Banerjee

Ms. Shallini Ghosh

Ms. Saptaparni Raha

...for the petitioner in WPA 22899 of 2024 &
for respondent no.4 in WPA 19773 of 2024

Mr. Avirup Chatterjee

Mr. Rishov Das

...for the petitioner in WPA 19773 of 2024 &
for respondent no.4 in WPA 22899 of 2024

Mr. Sandipan Banerjee

Ms. Sabnam De

Ms. Ujani Pal Samanta

...for Kolkata Municipal Corporation

Mr. Gopal Chandra Das

Mr. Rudranil De

Ms. Sabnam De

...for Kolkata Municipal Corporation

These two writ petitions are taken up for hearing together since both the petitions concern a construction work at premises no.32A, Shyampukur Street, Kolkata-700004.

Re: WPA 22899 of 2024

On July 11, 2024, the Corporation conducted an inspection at a restaurant located at 32A, Shyampukur Street, Kolkata-700004, and reported

that the petitioner had initiated preparations for the casting of a reinforced cement concrete (R.C.C.) slab at the first floor level over an existing intermediate lime terracing floor slab without an approved sanction plan. Consequently, the Corporation issued a stop-work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980, on the same date.

This notice was subsequently withdrawn on July 25, 2024, at the petitioner's request.

It further appears that subsequently, the petitioner submitted an application on August 1, 2024, to the Executive Engineer (Building), Borough-II, seeking permission for the repair of the ceiling. This prayer was not addressed.

The petitioner asserts that a second notice dated August 5, 2024, under Section 401 of the Kolkata Municipal Corporation Act was issued at the instigation of respondent No. 8, who allegedly holds significant influence over the Corporation authorities.

It is my opinion that while the petitioner's application dated August 1, 2024, for permission to reconstruct the roof was pending before the Corporation, it was incumbent upon the Corporation to process this prayer. Section 3(e) of the Kolkata Municipal Corporation Building Rules, 2009, permits the repair of an existing damaged roof without altering its nature, character, or dimensions, provided that

permission is obtained from the Commissioner or a delegated authority.

In light of these circumstances, I hereby dispose of this writ petition with a directive to the Executive Engineer, Borough-II, Kolkata Municipal Corporation, to grant the necessary permission to the petitioner for the repair of the roof within four days from the date of this order, subject to the fulfillment of all requisite formalities, including the payment of applicable fees by the petitioner. The time frame should be adhered to as the petitioner requires to resume commercial operations in advance of the upcoming Durga Puja festival.

Accordingly, **WPA 22899 of 2024** is disposed of.

Re: WPA 19773 of 2024

The petitioner in this writ petition prays for a direction upon the Corporation for demolition of the alleged unauthorised construction of the aforesaid restaurant.

The writ petition does not appear to be bona fide. The petitioner claims to be a customer of the petitioner in WPA 22899 of 2024. It does not appear that he resides in the vicinity of the restaurant in question.

This Court finds it difficult to comprehend what prejudice has been inflicted upon the petitioner due to the repair work carried out by the petitioner in WPA 22899 of 2024 or how such actions might adversely affect the public at large. Initially, this Court was inclined to impose a substantial cost for the filing of this frivolous writ petition. Nonetheless, at the insistence of the learned advocate representing the petitioner, this Court has opted not to impose any costs.

Accordingly, **WPA 19773 of 2024** is dismissed.

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

(Kausik Chanda, J.)