

27 13.03.2024
AGM/NB Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 28629 of 2023

Koushik Dutta & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Siddheswar Chandra,
Mr. Sandip Dutta.
..for the petitioner.

Mr. Pradip Kumar Mandal,
Mr. Bishnupada Jana.
...for the State.

Mr. Biswajit Mukherjee,
Ms. Manisha Nath.
...for the KMC.

Mr. Biswajit Ghosh,
Ms. Sumitra Chakraborty,
Ms. Anuska Pal.
...for the private respondents.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents at premises no.17, Palit Street, Ward No.69, Borough-VIII, Kolkata-700029 under the jurisdiction of Kolkata Municipal Corporation.

It appears from the submissions made on behalf of both the parties that the construction in question is the subject matter of a suit in between the parties that is pending consideration before the learned civil Court. The Kolkata Municipal Corporation is also a party in the said suit.

The petitioner complains that the construction has been made without any sanction.

Learned advocate representing the private respondents admits that no sanction was obtained prior to raising the said construction. Prayer has been made before the Corporation for regularisation of the said construction. The private respondents submit that the said room is being used for puja purpose.

Whether the construction in question has been made in accordance with any plan sanctioned by the Corporation or not is required to be ascertained by the plan sanctioning authority i.e. the Kolkata Municipal Corporation. Any construction that has been made in an unauthorised manner cannot be the subject matter of a suit and no order can be passed in respect of any construction that has been made in an unauthorised manner.

The respondent no.4 i.e. the Executive Engineer, Building Department, Borough-VIII is directed to cause a spot inspection upon prior notice to all the necessary parties to ascertain as to whether the construction in question has been made in accordance with any sanctioned plan or not.

The report of spot inspection shall be circulated amongst all the parties. An opportunity of hearing shall be given to all the parties. If it ultimately transpires that the construction in question is an unauthorised one, then necessary remedial steps shall be initiated to deal with the same in accordance with law.

It is made clear that pendency of the suit will not stand in the way of the Executive Engineer to cause the spot inspection and thereafter hear and decide the issue of unauthorised construction.

The aforesaid respondent shall act in accordance with the direction passed herein above at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

Report filed by the Officer-in-Charge, Ballygunge Police Station be retained with the records.

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

(Amrita Sinha, J.)