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13.03.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 29147 of 2023

**Tapan Sardar
-versus
The State of West Bengal & Ors.**

**Mr. Biswajit Sau,
Ms. Sukla Das Chandra.
...For the Petitioners.**

**Mr. Sabyasachi Mukherjee,
Ms. Jayeta Kanta Mitra,
Mr. Bibek Dey,
Mr. Mukesh Khanna,
Mr. Syed Neaz Ahmed,
Ms. Arundhuti Barai.
...For the Respondent Nos. 4 & 5.**

**Mr. Nayan Bihani,
Ms. Dipanwita Ganguly.
...For KMC.**

**Ms. Sima Adhikary,
Mr. Debansu Nandi.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner alleges that the private respondent no. 4 is forcefully preventing the petitioner from raising construction on the basis of the plan sanctioned by the Kolkata Municipal Corporation.

Learned advocate appearing for the private respondent no. 4 submits that the petitioner is raising construction over the private plot of the respondent no.4 being plot no. 349, Purba Putiary, Dakshin Para.

Learned advocate appearing for the Kolkata Municipal Corporation has obtained instruction from the engineers signed on 9th January, 2024 which mentions that the petitioner and his brother are owners of 2 Cottahs 8 Chittak of land in Mouza-Purba Putiari, J.L. No. 43, Touji No. 18.

The above land is partitioned in two plots lot 'A' and lot 'B' along with common passage for access of lot 'B'. Plan was sanctioned in favour of the brother of the petitioner Sankar Sardar in lot 'B' at premises no. 698, Mission Anchal for construction of two storied building. Another plan was sanctioned in favour of the petitioner in lot 'A' for construction of two storied building at premises no. 699, Mission Anchal.

The engineers of the Corporation mention that both the buildings were sanctioned by the Building Department after scrutinizing the duly signed documents submitted by the respective land owners.

It appears from the submissions made on behalf of the parties that the private respondents raise objection with regard to the construction being raised at plot no. 349, Purba Putiari. In the present case construction is being made by the petitioner in premises no. 699 and not in premises no. 349. The Corporation has disclosed before this Court that plan was sanctioned for raising construction over premises no. 699.

In view of the above, the petitioner shall be entitled to raise construction on the basis of the sanctioned plan at premises no. 699, Mission Anchal.

The private respondent nos. 4 and 5 are restrained from causing any disturbance and/or obstruction in the construction of the premises by the petitioner at the address mentioned hereinabove.

In the event the petitioner faces any resistance in raising construction at the behest of the private respondents, it will be open for the petitioner to approach the police for help. The police shall render all necessary help to ensure that no obstruction is caused to the petitioner at the time of raising construction in accordance with the plan sanctioned.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)