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ORDER SHEET
WPO No.7 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MR. VIKASH MIMANI & ANR.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:15th January, 2024.

Appearance:
Mr. Surajit Nath Mitra, Sr. Adv.
Mr. Srinjita Ghosh, Adv.
Mr. Pourush Kanti Pal, Adv.
Mr. Debdut Hore, Adv.
....for the Petitioners.

Mr. Mihir Kundu, Adv.
Ms. Tanushree Dasgupta, Adv.
... for K.M.C.

Mr. Surya Prasad Chattopadhyay, Adv.
Mr. Arjun Samanta, Adv.
...for Private Respondent.

The Court:- Leave granted to the learned Advocate-on-record of the petitioners to implead the Executive Engineer [Civil], Building Department, Borough-VIII of the Kolkata Municipal Corporation as party respondent in the instant writ petition. Formality of serving copy upon the added respondent stands dispensed with as the Corporation is represented by the learned advocates.

The petitioners complain of illegal and unauthorized construction at the behest of the private respondent at premises no.28C, Townshend Road, presently known as Sakharam Ganesh Dauskar Sarani, Ward No.72, Borough-VIII of the Kolkata Municipal Corporation. Objection lodged against such unauthorized construction is yet to be decided by the Corporation.

Learned advocate representing the private respondent denies the allegation of the petitioners. It has been submitted that the property is a thika property and the private respondents are only making

renovation and repairing the old structure as per Rule 3(2)(e) of the Kolkata Municipal Corporation Building Rules, 2009.

As it appears that the objection filed by the petitioners is pending consideration before the Corporation, accordingly, no useful purpose will be served by keeping the writ petition pending.

The Executive Engineer [Civil], Building Department, Borough-VIII of the Kolkata Municipal Corporation is directed to consider the legal representation filed on behalf of the petitioners on 17.05.2023 strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioners and all other necessary parties and pass a reasoned order within a period of twelve weeks from the date of communication of this order and communicate the reasoned order to the parties immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the objection with regard to unauthorized 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.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the objection of the petitioners.

The petitioners are directed to forward a copy of the objection dated 17.05.2023 to the aforesaid respondent at the time of communicating the order of the Court.

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

Writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)