

OD-5

ORDER SHEET
WPO No.12 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BISWANATH NANDI
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:11th January, 2024.

Appearance:
Mr. Sumitava Chakraborty, Adv.
Mr. Abhishek Mukherjee, Adv.
Mr. Shiladitya Barma, Adv.
....for the Petitioner.

Mr. Srijan Nayak, Adv.
Mr. Swapan Kr. Debnath, Adv.
... for K.M.C.

The Court:-The plan proposal submitted by the petitioner for raising construction is pending consideration at the end of the Kolkata Municipal Corporation on and from 23.06.2023. The said plan proposal was submitted on line and the status as shown in the official website of the Corporation discloses that, in respect of water supply and drainage approval has been given by the department. Joint inspection was also done on 05.07.2023.

No reason has been forwarded by the Corporation for not proceeding with the plan proposal. The petitioner thereafter submitted a certificate for structural stability issued by the Licensed Building Surveyor of the Kolkata Municipal Corporation and submits that the petitioner intends to start construction work.

Reliance has been placed on the Municipal Commissioner's Circular No.05 of 2023-24 issued by the Municipal Commissioner on 18.04.2023. It has been submitted that the petitioner may be permitted to commence construction in accordance with the aforesaid Circular.

Learned advocate representing the Corporation submits, upon instruction that, there is serious issue with regard to title of the land in question. It has been submitted that the title of the land is under a cloud for which the plan proposal could not be proceeded further.

According to the provision of law, the Corporation ought to have taken a decision on the plan proposal filed by the petitioner within a period of sixty days. The said time period is long over. The Corporation ought to have intimated the petitioner the fate of the plan proposal within the statutory time period instead of compelling the petitioner to approach the Court.

Be that as it may, as it appears that the Corporation has raised an issue with regard to title dispute of the land in question where the construction will be made, accordingly, the Corporation is directed to immediately intimate the petitioner the fate of the plan proposal in accordance with law at the earliest, but positively within a period of four weeks from date of communication of this order. Detailed reasons shall be disclosed in the event the prayer of the petitioner is rejected.

It goes without saying that if there is no defect in the plan proposal, the Corporation shall proceed to sanction the same in accordance with law.

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.)