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ORDER SHEET

WPO No.66 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ANANDA MOHAN ROY
-Versus-
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 23rd February, 2024.

Appearance:
Mr. Srijib Chakraborty, Adv.
Mr. Dyutiman Banerjee, Adv.
Mr. Deb Kumar Deashi, Adv.
...for Petitioner.

Mr. Fazlul Haque, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mr. Sayantan Bose, Adv.
Mr. Sarbajit Mukherjee, Adv.
...for Respondent Nos. 9 & 10.

Mr. Biswabrata Basu Mallick, AGP.
Ms. Parna Roy Choudhury, Adv.
...for the State.

The Court:-The petitioner filed the instant writ petition with the allegation that the private respondent was proceeding to construct a new five storied building within an area of about 1033 sq. ft. by demolishing the old construction standing at premises no. 11/A, Ankul Mukherjee Road, Ward No. 21, Borough-IV of the Kolkata Municipal Corporation.

Allegation is that the construction in question is blocking the air and light of the building of the petitioner and the construction so being made can collapse at any moment which may lead to loss of lives.

The petitioner relies upon the Rule under which the plan was sanctioned in favour of the private respondents for raising construction. It has been submitted that the open space as mentioned in the plan has been encroached by raising construction thereon.

Prayer has been made for conducting further spot inspection to ascertain as to whether the construction is being made in accordance with plan sanctioned or not.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the construction is being made in accordance with the plan sanctioned. It has been submitted that the instant writ petition is a further effort on the part of the petitioner to stall the construction work which is being made in accordance with the plan sanctioned.

An earlier writ petition being WPO No.1085 of 2023 was filed by one of the other neighbours of the private respondents, that is, Bijoli Basak. The Court vide order dated 21.06.2023 took note of the order of regularisation issued by the Corporation and observed that since the order is an appealable one, it would be open for the petitioner, that is, Bijoli Basak to approach the appropriate forum. The order of the learned Single Judge was carried in appeal and the Hon'ble Division Bench vide order dated 22nd September, 2023 passed in APOT/303/2023 with WPO/1085/2023, IA NO:GA/1/2023 and IA NO:GA/2/2023 was pleased not to interfere with the order passed by the learned Single Judge.

The report of the Corporation suggests that the construction is being made in accordance with the plan sanctioned by the Kolkata Municipal Corporation. The details of the plan sanctioned are mentioned in the instruction forwarded by the engineers of the Kolkata Municipal Corporation.

It appears from the submissions made on behalf of the parties and upon perusal of the materials of record that the construction in question is done in terms of the sanction issued by the Kolkata Municipal Corporation. There is indeed an order of regularisation. The said order is an appealable one. The submission of the petitioner is that the order of regularisation could not be passed without granting an opportunity of hearing to the petitioner. The said issue can be raised before the appropriate forum in the

event the petitioner chooses to challenge the order of regularisation. Apparently, it does not appear, that there is any illegal construction as alleged by the petitioner requiring the Writ Court to exercise the jurisdiction in the matter.

In view of the above, the Court refrains from exercising jurisdiction. The writ petition fails and is hereby dismissed.

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

(AMRITA SINHA, J.)

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