

OD-4

ORDER SHEET

WPO No.80 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SOUMO SEKHAR DUTTA & ORS.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 13th February, 2024.

Appearance:
Mr. Alak Kr. Ghosh, Adv.
Mr. Raghunath Chakraborty, Adv.
Mr. Supratick Syamal, Adv.
Ms. Sonali Sengupta, Adv.
...for Petitioners.
Mr. Biswajit Mukherjee, Adv.
Mr. Anand Farmania, Adv.
...for KMC.
Mr. Pradyot Kr. Nandi, Adv.
...for Respondent Nos. 6 & 9.
Mr. Anup Kr. Mukhopadhyay, Adv.
Mr. Abhijit Sarkar, Adv.
...for Respondent No.7.
Mr. Subhasis Sengupta, Adv.
Ms. Sabarnee Chatterjee, Adv.
...for Respondent Nos. 10, 12 to 16.
Mrs. Papiya Banerjee Bihani, Adv.
...for State.

The Court:- The petitioner has filed the instant writ petition, inter alia, praying for a direction upon the Corporation to take steps for temporary vacating the respondent nos.7 & 8 for compliance of the instruction dated 18.12.2023 as per Section 412A of the Kolkata Municipal Corporation Act, 1980 and also providing police guard for demolition of the subject building.

Learned advocate representing the respondent no.7 submits, upon instruction that, sanction plan has been obtained by the petitioners by practising fraud. No objection as required to be obtained from the tenants, being the private respondents, have not been obtained till date. The correct area where the tenants will be rehabilitated has not been mentioned in the sanction plan. The landlord being the writ petitioner herein is not inclined to execute the registered instrument in favour of the private respondents.

It appears from the documents annexed to the writ petition that in an earlier writ petition being WPO No.1873 of 2023 filed by the petitioner, the Executive Engineer (Building), Borough-IV & V submitted a written instruction before this Court signed on 18th December, 2023 mentioning that the owner was directed to take further action under Section 412A of the Kolkata Municipal Corporation Act, 1980 and the sanction plan was to be issued after the submission of the fresh plan proposal without correction.

It appears from the submissions made on behalf of the parties and upon perusal of the materials on record that a couple of tenants especially respondent nos.6, 9, 10, 12 to 16 already vacated the subject premises long back. It is for the writ petitioner/landlord to take necessary steps for rehabilitation of the tenants as the Corporation has given the advantage of Rule 142 of the Kolkata Municipal Corporation Building Rules, 2009.

It is not for the Writ Court to entertain any disputed question of facts raised herein. It will be open for the parties to take necessary steps in accordance with law for obtaining sanction plan and to make construction in accordance with the same. The Writ Court ought not to entertain the issue with regard to rehabilitation of the tenants.

In view of the above, no order can be passed in favour of the writ petitioners. The writ petition fails and is hereby dismissed.

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

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

(AMRITA SINHA, J.)