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ORDER SHEET
WPO No.99 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANJAY KUMAR DEY
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 29th February, 2024.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Sumitava Chakraborty, Adv.
...for Petitioner.

Mr. Mihir Kundu, Adv.
Mr. Sundar Gopal Bhattacharya, Adv.
...for KMC.

Mr. Arindam Banerjee, Adv.
Ms. Sinthia Bala, Adv.
...for Respondent No.6.

Mr. Yash Vardhan Deora, Adv.
... for the State.

The Court:- The petitioner claims to be the owner of the premises no.86/2A, Topsia Road South under Ward no.59, Borough-VII of the Kolkata Municipal Corporation. The petitioner alleges that the private respondents are raising construction over his plot of land relying upon the sanctioned plan issued in respect of the premises no.86/2C/7, Topsia Road South. A complaint was lodged before the Municipal Commissioner raising objection to the said construction. The petitioner prays for a direction upon the Commissioner of the Kolkata Municipal Corporation to take steps for cancellation of the sanctioned plan as the same was allegedly obtained upon practising misrepresentation and fraud.

Learned advocate representing the respondent no.6 submits, upon instruction that, his client is the owner of the premises no.86/2C/7, Topsia Road South and he is raising construction over his plot of land in accordance with the plan sanctioned by the Kolkata Municipal Corporation.

Learned advocate refers to an order dated 08.01.2024 passed by this Bench in WPO No.1904 of 2023 (Sk. Arif Vs. Kolkata Municipal Corporation & Ors.) wherein a similar issue was decided and disposed of by the Court.

Learned advocate representing the Kolkata Municipal Corporation has relied upon a report forwarded by the engineers of the Corporation signed on 27.02.2024. It appears therefrom that the department inspected the premises no.86/2C/7, Topsia Road South and found that construction of four storied RCC framed structure is in progress. The construction work tallies with the sanctioned plan for construction of G+ III storied building.

From the submissions made on behalf of all the parties, it appears that there is an issue with regard to the identification of the plot of land where the construction is being made. The petitioner claims that the construction is being made over his plot of land at premises no.86/2A, Topsia Road South, whereas the private respondent no.6 and the Kolkata Municipal Corporation submit that the construction is being made over premises no.86/2C/7, Topsia Road South in accordance with plan sanctioned.

With such disputed questions of facts neither the writ court nor the Commissioner will be in a position to adjudicate the issue. In view of the above, the relief claimed by the petitioner cannot be allowed.

It will be open for the petitioner to approach the appropriate forum for relief.

The writ petition stands 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.)