

OD-16

ORDER SHEET
WPO No.128 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. YASSAR & ANR.
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 26th February, 2024.

Appearance:
Mr. Ranajit Chatterjee, Adv.
...for the Petitioners.

Mr. Gopal Chandra Das , Adv.
....for KMC.

Mr. Sayan Ganguly, Adv.
..for the State.

Mr. Shan Shen, Adv.
Sk. Abumuslu, Adv.
Mohammad Shehabuddin, Adv.
...for Private Respondent.

The Court:- The petitioners complain of illegal and unauthorized construction at the behest of the private respondent at 3/45, Narkeldanga Main Road, Ward No.29, Borough-III of the Kolkata Municipal Corporation.

Complaint lodged by the legal representative of the petitioners in January, 2024 is yet to be considered.

Learned advocate representing the private respondent denies the allegations of the petitioners. It has been submitted that the construction in question is in existence for a long period of time. As the private respondent refused to pay to the petitioners the amount as demanded, the instant writ petition has been filed.

Without going into the claim and counter claim of the parties, as it appears that an objection to the construction is pending consideration at the end of the Kolkata Municipal Corporation, accordingly, no useful purpose will be served by keeping the writ petition pending.

The Executive Engineer [Civil], Building Department, Borough-III of the Kolkata Municipal Corporation herein the respondent no.3 is directed to consider the legal representation filed on behalf of the petitioners on 15.01.2024 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 representation dated 15.01.2024 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge, Narkeldanga Police Station signed on 23.02.2024 be retained with the 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.)

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