

WPO No.185 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MRINAL KANTI BHATTARCHARYYA
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 8th March, 2024.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Supratik Shyamal, Adv.
Mr. Nitin Kr. Das, Adv.
Ms. Sabarnee Chatterjee, Adv.
...For Petitioner.

Mr. Gurudas Mitra, Adv.
Mr. Arijit Dey, Adv.
...For KMC.

Mrs. Tuli Sinha, Adv.
...For State.

The Court:- The petitioner is aggrieved by the act of the Kolkata Municipal Corporation in permitting the private respondent to carry on construction/reconstruction work in terms of the reconstruction plan under Rule 3(2) (e) of the Kolkata Municipal Corporation Building Rules, 2009 and under Section 410 of the Kolkata Municipal Corporation Act, 1980.

It appears that the said reconstruction plan was sanctioned by the engineers of the Corporation on 10th August, 2022 and the same is valid till 21st August, 2024. The work is required to be done under the supervision of the ESE (Empanelled Structural Engineer) of the Kolkata Municipal Corporation.

The categoric submission of the petitioner is that the plan which has been sanctioned cannot be in accordance with Rule 3(2)(e) or Section 410 as mentioned therein.

It has been submitted that a formal sanction ought to be issued by the Kolkata Municipal Corporation in view of the nature of construction

work that is being made at the instance of the private respondent. An objection has already been filed before the Kolkata Municipal Corporation which is pending consideration.

None represents the private respondent.

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

Learned advocate representing the Kolkata Municipal Corporation submits that the reconstruction plan has duly been sanctioned in accordance with the Act and the corresponding Rules.

It has been submitted that the petitioner has already filed a Title Suit in connection with the installation of lift and the learned Civil Court has been pleased to pass an order of injunction in Title Suit No.237 of 2024 on 09.02.2024.

Upon hearing the parties and upon perusal of the documents on record, it appears that reconstruction plan has duly been sanctioned by the Corporation. The petitioner contends that the same is not in accordance with law. An objection is pending consideration. On a perusal of the same, it appears that the same is devoid of the relevant details.

In view of the above, leave is granted to the petitioner to file comprehensive representation highlighting all the legalities allegedly committed by the Corporation at the time of sanctioning the reconstruction plan.

In the event such representation is made, then the same shall be considered and disposed of by the Director General (Building) after giving a reasonable opportunity of hearing to the petitioner and the private respondent at the earliest but positively within a period of four weeks from the date of receipt of the representation. A reasoned order shall be passed and communicated to the parties immediately thereafter. If any remedial measure is required to be taken, the same shall be taken forthwith.

The writ petition stands disposed of.

Report filed by the Officer-in-Charge, Muchipara Police Station signed on 05.03.2024 be retained with the 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.)

nm