

ORDER SHEET

WPO/240/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BISWANATH NANDI
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 24th April, 2024.

Appearance:
Mr. Srijib Chatterjee, Adv.
Mr. Shiladitya Barma, Adv.
Mr. Sumitava Chakraborty, Adv.
Ms. Priyanka ghosh, Adv.
...For the Petitioner

Mr. Srijan Nayak, Adv.
Mr. Swapan Kr. Debnath, Adv.
...For the KMC

Mr. Debabrata Saha Roy, Adv.
Mr. Neil Basu, Adv.
Mr. Sankha Biswas, Adv.
...For Private Respondent nos. 6 & 7

The Court: Learned advocate-on-record of the petitioner is granted leave to correct the address of the private respondent nos. 6 & 7 in the cause title of the writ petition. The correct address of the respondent nos. 6 and 7 is 149, Arabinda Sarani, Beadon Street, Kolkata-700006.

A departmental report has been placed before this Court by the learned advocate representing the Corporation signed by the officers of the Assessment Collection Department on 19th April, 2024 wherefrom it appears that as per the records of KMC there exists two distinct premises namely 249 and 213, Rajdanga, Naba Pally in Ward No. 107, Kolkata Municipal Corporation. The assessment of premises no. 249 was made in favour of Sri.

Biswanath Nandi having property 1-DH on a land area 3 kottah on the strength of registered deed dated 1st February, 2023.

The instant writ petition has been filed by the petitioner challenging the communication dated 5th February, 2024 made by the Executive Engineer (Civil) Building, Borough - XII, Kolkata Municipal Corporation whereby the plan proposal submitted by the petitioner stood rejected on the ground that a building plan was sanctioned on the same land as premises No. 213, Rajdanga, Nabapally. The impugned communication mentions that there is a dispute regarding the land with one Smt. Alpana Bhunia and Tapan Bhunia, the private respondents who claim they are the owners of the said land. The assessment department informed the Executive Engineer not to sanction the building plan.

Admittedly, a civil suit is pending consideration in between the vendor of the petitioner and the private respondents.

As it appears from the report filed in Court today that premises nos. 249 and 213 are distinct separate premises, accordingly, they are ought not to be any difficulty in identification of the two distinct plot of lands. According to the registered deed, the petitioner is the owner of the premises no. 249. The private respondents claim ownership of the premises no. 213. Apparently, it does not appear there is any dispute with regard to the two plots.

In the event, there is any difficulty in identification of the subject plots then it will be open for the parties to approach the Civil Court for remedy.

As regards the sanction of the building plan, the Corporation may take steps to sanction the plan in respect of premises no. 249 in accordance

with the provisions of law at the earliest but positively within sixteen weeks from the date of communication of this order.

Let copy of the departmental report filed in Court today be circulated amongst the respective parties.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)

TR/

