

OD-8

WPO No.275 of 2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

GAUTAM NUNDY
VERSUS
THE COMMISSIONER, KOLKATA
MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 12th April, 2024.

Appearance:
Mr. Ranjan Kali, Adv.
Mrs. Saifali Mazumder, Adv.
Mr. Sobhan Pathak, Adv.
. . .for the Petitioner.

Mr. Srijan Nayak, Adv.
Mr. Swapan Kr. Debnath, Adv.
. . .for the K.M.C.

Mrs. Sipra Mazumdar, Adv.
Mrs. Debarati Sen (Bose), Adv.
...for the State.

The Court:- The petitioner and the private respondent are co-owners of the premises at 51, Lenin Sarani, P.S.-Taltala, Kolkata-700013. The petitioner claims that he is 80 % share holder of the subject premises and the rest 20 % is of the private respondent. The shares of the parties are undivided and un-demarcated. It has been submitted that the respondent no.6 has died and he is survived by his widow.

The petitioner is particularly aggrieved by the act of the private respondent in using a portion of the subject premises as parking space without obtaining his consent.

The petitioner also submits that no permission has been obtained from the Corporation for using the said place as parking space. The petitioner also alleges unauthorized construction.

A representation has been filed on behalf of the petitioner which is alleged to be kept pending.

The Court is not very convenience with regard to the maintainability of the writ petition. The dispute primarily appears to be private in nature. As regards unauthorized construction it appears that proper representation has not been filed before the competent authority highlighting such grievance.

In view of the above, it will be open for the petitioner to make appropriate representation before the Executive Engineer of the concerned Borough. In the event such representation is made, the Executive Engineer shall consider the representation to be filed by the petitioner in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties and by passing a reasoned order.

The writ petition stand disposed of.

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

Report filed by the Officer-in-Charge, Taltala Police Station be retained with the records.

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

(AMRITA SINHA, J.)