

OD-3

ORDER SHEET

WPO No.375 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

USHA PAUL
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 2nd May, 2024.

Appearance:
Mr. Rajdeep Bhattacharya, Adv.
Mr. Debashis Banerjee, Adv.
...for Petitioner.

Mr. Swapan Kr. Debnath, Adv.
Ms. Dipanwita Ganguly, Adv.
...for KMC.

Ms. Nilofer Siddique Alam, Adv.
...for Respondent No.8.

Mr. Pran Gopal Da, Adv.
...for Sukanta Banik.

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

The petitioner complains that unauthorized construction has been made by the private respondents at 1/15E, Chittaranjan Colony, Ward No.102, Borough-XII of the Kolkata Municipal Corporation.

Initially the complaint of unauthorized construction was considered by the Special Officer [Building] and an order of retention was passed on 1st April, 2022 subject to payment of fees under Section 400(1) of the Kolkata Municipal Corporation Act, 1980. The petitioner is not aware as to whether the retention fees have been paid or not.

The present allegation of the petitioner is that the private respondents, over and above the portion permitted to be retained, are making unauthorized construction.

Complaint was lodged before the Kolkata Municipal Corporation but the same has been taken up for consideration till date.

Learned advocate representing Sukanta Banik, son of the deceased respondent no.6, submits, upon instruction that, no new construction has been made after the order of retention was passed.

The name of the respondent no.7 is mentioned as Susanta Banik.

Learned advocate representing Sukanta Banik submits that there is none by the name of Susanta Banik in the said premises.

Leave is granted to the learned Advocate-on-record of the petitioner to correct the name of the respondent no.7. The correct name should read as Sukanta Banik in place and instead of Susanta Banik.

Learned advocate representing the Kolkata Municipal Corporation relies upon the instruction forwarded by the Executive Engineer (Civil)/ Building Department/Borough-XII signed on 30.04.2024 wherein it has been mentioned that after receiving complaint from the petitioner, the officers of the Building department inspected the premises but no new unauthorized construction or further construction work has been found.

It does not appear from the report filed by the Executive Engineer that the inspection was conducted upon notice to the parties. Accordingly, the Executive Engineer (Civil)/Building Department/Borough-XII is directed cause further spot inspection upon prior notice to all the necessary parties to ascertain as to whether any unauthorized construction has been made or not and circulate the spot inspection report to the parties.

If any unauthorized construction is detected, then an opportunity of hearing shall be given to the parties to place documents in respect of

their respective stand. A final order shall be passed and communicated to the parties. Steps shall be taken in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the legal representation dated 27th February, 2024 along with the report of the Licensed Building Surveyor to the aforesaid respondent at the time of communicating the order of the Court.

The 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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