

OD-3

ORDER SHEET  
WPO No.442 of 2024  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

NABI ROSUL KHOKAR  
VERSUS  
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:  
The Hon'ble JUSTICE AMRITA SINHA  
Date: 17th May, 2024.

Appearance:  
Mr. Tarique Quasimuddin, Adv.  
Mr. Nasir Quasimuddin, Adv.  
Ms. Sanchita Chaudhuri, Adv.  
Mr. Rahul Kr. Mahato, Adv.  
... for the Petitioner.

Mr. Arijit Dey, Adv.  
Ms. Sabnam De, Adv.  
...for KMC

Mr. Kushal Chatterjee, Adv.  
Mr. Debrup Choudhury, Adv.  
Mr. Sourav Guchhait  
...for Respondent nos .5 to 8.

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

The Court:- The petitioner complains of illegal and unauthorized construction at the behest of the private respondents at shop room nos. 1 and 4 in the ground floor of premises no.16, Amratalla Lane, P.S. Burrabazar, Kolkata-700001, Ward no. 42, Borough-V of the Kolkata Municipal Corporation.

The petitioner has annexed photographs in support of the submission that iron structures have been laid down for making further construction at the subject premises. Objection filed against such unauthorized construction is pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the construction is a very old one and no new construction has been made at the behest of the private respondents. White washing and repairing work of the already damaged portions are being made by the private respondents pursuant to the notice issued by the Corporation under Section 411(1) of the Act.

Learned advocate representing the Corporation is yet to receive instruction in the matter.

The writ petition is disposed of by directing the Executive Engineer (Civil)/Building Department, Borough-V of the Kolkata Municipal Corporation being the respondent no.3 herein to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners 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 representation 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 representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated 21<sup>st</sup> April, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge, Burrabazar Police Station signed on 17.05.2024 be retained with the records.

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

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