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ORDER SHEET

WPO No.456 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SRI AJOY KUMAR ROY
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

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

Appearance:
Mr. Dyutiman Banerjee, Adv.
Mr. Vishal Mallick, Adv.
... for the Petitioner.

Mr. Swapan Kr. Debnath, Adv.
...for KMC.

Mr. Uday Sankar Bhattacharya, Adv.
Ms. Sudeshna Basu Thakur, Adv.
Ms. Banani Bhattacharya, Adv.
...for Respondent nos.7, 9,10 & 12.

The Court:- The petitioner complains of illegal and unauthorized construction at premises no.67/A, Garfa Gouranga Sarani, Kolkata-700078. Objection lodged against such unauthorized construction is pending consideration.

Learned advocate representing the private respondent nos.7, 9, 10 & 12 submits that the writ petition is not maintainable. Owner of the property has not been made party in the instant writ petition. The Power of Attorney holder has presented the writ petition on behalf of the owner.

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

It is settled law that the issue of unauthorised construction can be raised by any person including a stranger. It is not necessary that an owner of the property has to come forward to lodge a complaint of unauthorized construction. The respondent authorities are bound to act in accordance with law and ensure that no unauthorized construction takes place.

The writ petition is accordingly disposed of by directing the Executive Engineer, Borough-XII of the Kolkata Municipal Corporation, being the respondent no.4 herein to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties, including the petitioner, within a period of twelve weeks from the date of communication of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner 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 petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 24th February, 2024 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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