

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/541/2024
PRAKASH KUMAR PODDAR
-VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date: November 20, 2024.

Mr. S. Roy, Adv.; Mr.S. Roy, Adv.; Mr. T. Poddar, Adv. appear.
Mr. A.K. Ghosh, Adv.; Mr. S.K. Debnath, Adv., appear.
Mr. D. Saha Roy, Adv.; Mr. N. Basu, Adv.; Mr. S. Biswas, Adv., appear.

The Court: The petitioner seeks an order directing the Kolkata Municipal Corporation to cancel the sanctioned plan and the mutation of assessment records in favour of respondents nos.5 and 6 in relation to Mouja Kasba, J.L. No. 13, R.S. No. 233, within District Collectorate Touji No. 145, pertaining to Dag No. 2624 under R.S. Khatian No. 1783, within the jurisdiction of the Calcutta Municipal Corporation, Ward No. 107, formerly under P.S. Tollygunge and currently under P.S. Kasba, Sub-Registry Office, formerly located at Alipore and presently at Sealdah, District South 24 Parganas.

The learned Advocate for the petitioner submits that the title, rights, and interests pertaining to the property in question are currently the subject matter of Title Suit No. 1999/2023, pending before the learned Civil Judge (Junior Division), 1st Additional Court, Alipore, as well as Title Suit No. 656/2024, pending before the learned Civil Judge (Senior Division), 5th Court at Alipore.

The learned Advocate argues that any construction carried out in accordance with the sanctioned plan may render the ongoing title suits futile.

Mr. Debabrata Saha Roy, learned Advocate for respondents Nos. 5 and 6, has drawn the Court's attention to an order dated January 17, 2024, passed in Misc. Appeal No. 10/2024, in connection with Title Suit No. 1999/2023, wherein the petitioner was restrained from obstructing the construction being undertaken in accordance with the sanctioned plan by the Kolkata Municipal Corporation.

Mr. Saha Roy has also referred to an order dated August 12, 2024, passed by a Division Bench of this Court, wherein the operation of an order passed by a learned Single Judge in W.P.O. 240/2024, filed by the petitioner's brother, was stayed. The Single Judge's order had restrained respondents Nos. 5 and 6 from carrying out construction on the disputed plot of land.

In light of the fact that the competent Civil Court, after due hearing, has restrained the petitioner from interfering with the construction activities, I am not inclined to pass an order contrary to the directions of the said court.

Additionally, I am of the view that granting the reliefs sought in the writ petition would interfere with the order dated August 12, 2024, passed by the Division Bench.

In view of the foregoing, the writ petition is dismissed. However, the dismissal of this writ petition shall not preclude the petitioner from seeking appropriate relief in connection with the pending civil suits.

(KAUSIK CHANDA, J.)

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