

WPO/732/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AL HAJ AMIR HASAN PROPERTIES PVT.
LTD. AND ANR.

-VERSUS-

UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 24th September, 2024.

Appearance:

Mr. Nirmalya Dasgupta, Adv.

Mr. Dibanath Dey, Adv.

Mr. Jitendra Patnaik, Adv.

Ms. Pallavi Pain, Adv.

...for the petitioner.

Mrt. Sayak Ranjan Ganguly, Adv.

...for the Archaeological Survey of India.

Mr. Srijib Chakraborty

...for respondent No.1

The Court: The third affidavit-of-service, sent through Special Messenger showing service upon Archaeological Survey of India (in short 'ASI') at its office at Kolkata on 10th September, 2024, is taken on record.

The petitioner wanted to repair the interior of a shop room by changing the floors and painting the wall. It is informed that the work is over. The Union of India is not required to answer any issue raised in this writ petition as the challenge in this writ petition are the notices issued by the Conservation Assistant, ASI, Kolkata Sub-Circle. The ASI proceeded on the

basis that the petitioner was carrying out a construction work within the prohibited and regulated area. The relevant portion of one of such notice is quoted below:

“In this regard, your attention is drawn to the provisions of the Ancient monuments and Archaeological site and Remains Act, 1958 and the Rules, 1959 and Gazette Notification No. S.O. 1764, dated 16th Jun, 1992 and the Ancient Monuments and Archaeological site and Remains (Amendment and Validation) Act, 2010 promulgated on 30.03.2010. It is stated that 100 Mt. from the Protected Limits in all direction of a Protected Monument is declared as “Prohibited Area” where no construction and mining work is allowed and further 200 Mt. from the Prohibited Area is terms as “Regulated Area” of the Monument where such construction, mining work may be permitted subject to the prior approval by the **National Monument Authority through the Competent Authority & the Regional Director, Eastern Region, Archaeological Survey of India, Currency Building, 1, B.B.D. Bag, Kolkata-700001** after submitting details of plan, elevation, etc. of such proposed structure or mining work.”

It appears that by the notices, the petitioner was asked to stop the construction work within the prohibited area of the centrally protected monument namely, old building of the Asiatic Society, Kolkata. The relevant law permits repair and renovation, but does not allow construction or reconstruction. In this case, the petitioner wanted to repair the floors, paint the walls and make some interior decorations. The petitioners were allowed by an interim order of this Court to carry out the repair without touching the

exterior and without compromising with the structural stability of the building. During the pendency of this writ petition and when this Court was awaiting a response from the ASI, the petitioner has completed such repair and renovation work.

Under such circumstances, WPO/732/2024 is disposed of. With the completion of the repair work permitted by Court, the grievance of the petitioner has been met.

Nothing remains to be decided in the writ petition.

(SHAMPA SARKAR, J.)

A/s.