

ORDER SHEET

WPO/739/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WELLSIDE GLOBAL PRIVATE LIMITED AND ANOTHER
Vs
CHAIRMAN, WEST BENGAL HERITAGE COMMISSION, GOVERNMENT OF
WEST BENGAL AND OTHERS.

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 12th November, 2024.

Appearance:
Mr. Sankarsan Sarkar, Adv.
Mr. Mayank Kakrania, Adv.
...for the petitioners

Mr. Alak Kr. Ghosh Adv.
Mr. Arijit Dey, Adv.
...for the K.M.C.

The Court: It appears that, on a previous occasion, the petitioners obtained a "No Objection" certificate for the construction of a building adjacent to the heritage structure at 7, Ho Chi Minh Sarani, Kolkata. The petitioners now seek to undertake further construction on the site. The Corporation has already granted permission for the construction of a 24-storey building on the said plot, although the construction has not yet been completed. The petitioners now seek additional permission from the

Corporation for an increased Floor Area Ratio (FAR) to accommodate extra car parking spaces and additional floors.

The learned advocate for the petitioners submits that, as in the previous instance, the petitioners have made a representation to the Chairman of the West Bengal Heritage Commission, seeking permission for the additional construction by a letter dated May 10, 2024. Despite repeated representations, the petitioners allege that their prayer has not yet been considered by the West Bengal Heritage Commission.

Mr. Alak Kumar Ghosh, learned advocate for the Kolkata Municipal Corporation, has drawn the Court's attention to Section 425E of the Kolkata Municipal Corporation Act, 1980, as well as Sections 11 and 12 of the West Bengal Heritage Commission Act, 2001. He contends that the opinion of the Heritage Commission of Kolkata Municipal Corporation is required before the approval of any additional construction. However, he also submits that the jurisdiction of the West Bengal Heritage Commission is advisory in nature and is not binding on the Kolkata Municipal Corporation.

Mr. Sankarsan Sarkar, learned advocate for the petitioners, has referred the Court to Section 29 of the West Bengal Heritage Commission Act, 2001, arguing that the provisions of the Act of 2021 have overriding effect.

At this stage, the Court is not inclined to address the submissions made by the parties regarding the legal interpretation of the relevant statutory provisions. However, the Court is of the view that the West Bengal Heritage

Commission must expedite its consideration of the petitioners' request for additional construction.

Accordingly, I dispose of this writ petition, WPO/739/2024, with a direction to the West Bengal Heritage Commission (respondent no. 1) to consider the petitioners' representation dated May 10, 2024, at page 38 of the writ petition, and communicate its decision within one month from the date of communication of this order. Upon receiving the Commission's response, the petitioners will be at liberty to approach the Kolkata Municipal Corporation in accordance with law.

Accordingly, W.P.O. No.739 of 2024 is disposed of.

(KAUSIK CHANDA, J.)