

OD-7

WPO No. 1583 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MAHESH PROPERTIES PVT. LTD. & ANR.
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE KAUSIK CHANDA
Date : 3rd September, 2024

Appearance :
Mr. Dayashankar Mishra, Adv.
Mr. Dhiraj Kumar Trivedi, Adv.
Mr. Suphil Kr. Mishra, Adv.
Mr. Sailendra Kr. Mishra, Adv.
Mr. Sunil Gupta, Adv.
Ms. Sabnam Laskar, Adv.
Mr. B.K. Singh, Adv.
... for Petitioners

Mr. Biswajit Mukherjee, Adv.
Ms. Sima Chakraborty, Adv.
...for the KMC

Mr. Debangshu Dinda, Adv.
...for the State

The Court : In an earlier round of writ petition, the petitioners challenged the provisional permission dated June 2, 2017 and the final permission dated June 15, 2017 for repair of the relevant premises by the Kolkata Municipal Corporation in respect of Block C building at Premises No.43, Kailash Bose

Street, Kolkata-700006. The petitioners claim themselves to be the lessees/developers of the said premises. They constructed four blocks at the said premises containing a number of flats.

The flats have been subleased to the intending occupiers. Subsequently, a society was formed for administration, management and maintenance of the buildings after collecting maintenance charges from the respective sub-lessees of different blocks.

It appears that some of the sub-lessees of Block C obtained a permission dated June 15, 2017 from the Executive Engineer (Civil) Building, Borough IV and V, to effect repairs in the cantilever verandah of the said building.

Challenging such permission granted by the Kolkata Municipal Corporation, the writ petitioner filed WP No. 406 of 2017. A coordinate Bench of this Court on August 3, 2017 disposed of the said writ petition permitting the petitioner to effect the repairs strictly in terms of the order dated 15th June, 2017, issued by the Corporation, under the supervision of an empanelled structural engineer. It was further directed that the entire cost of repair as well as the remuneration of the said engineer should be borne by the petitioner.

It appears that in carrying out the repair works by the petitioners in terms of the aforesaid order dated June 15, 2017, the Corporation detected some unauthorized constructions.

Accordingly, Corporation passed a demolition order dated September 8, 2023. The said demolition order was partly implemented on September 21, 2023.

Challenging the demolition proceeding initiated by the Kolkata Municipal Corporation, this present writ petition has been filed by the petitioners.

Before this Court the petitioners seriously dispute the allegation regarding the unauthorized construction. The petitioners contend that the repair work was carried out under the supervision of an engineer empanelled with the Corporation and there has been no deviation of the sanctioned plan. The Corporation, on the other hand, alleges that in the garb of undertaking the repair works the petitioners sought to convert the verandahs into rooms.

Be that as it may, in view of the stance taken by the petitioners before this Court, I am not inclined to keep this writ petition pending.

The petitioners submit that they will carry out the repair works in terms of the permission granted by the order dated June 15, 2017.

The Corporation submits that if the repair work is carried out strictly in terms of the said order, it has no objection. The Corporation further clarifies that if the petitioners intend to carry out any additional construction work, that would require a prior sanction from the Corporation.

In view of the aforesaid, I dispose of this writ petition by permitting the petitioners to complete the repair work strictly in terms of the permission given by the Corporation by the order dated June 15, 2017.

The Corporation shall depute a competent engineer to ascertain as to whether the repair works can be carried out in terms of the order dated June 15, 2017 retaining the remaining unauthorized construction. If it is permissible to do

so, the petitioners shall be allowed to complete the repair work retaining the remaining unauthorized construction. If the said engineer opines otherwise, the petitioners shall remove the said remaining unauthorized construction first, and thereafter undertake the repair work. Needless to mention, any additional construction work would require a prior permission from the Corporation.

(KAUSIK CHANDA, J.)

SN/SM.
AR(CR)