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ORDER SHEET

WPO/1590/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

AMITAVA DE BHOWMICK AND ANR.
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE JAY SENGUPTA
Date: 17th January, 2024.

Appearance:
Mr. Srijib Chakrabarty, Adv.
Mr. Aditya Mondal, Adv.
...For the Petitioner

Mr. Debjit Mukherjee, Adv.
Ms. Rupsha Chakraborty, Adv.
...for the State

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

Mr. Jit Roy, Adv.
Mr. Joydeep Dhar, Adv.
Mr. Saptadeep Dhar, Adv.
...For the private respondent

The Court: This is an application, inter alia, praying for stopping further construction and/or erection at the premises in question and directing the respondent to reinvestigate the instant act as per Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had lodged a complaint about illegal construction. The Municipal Authorities issued a stop work notice. In spite of that, the

Police Authorities allowed the construction work to continue at least from the date of issuance of notice and service upon the police i.e. 22.3.2022 till the next letter issued by the Municipal Authorities dated 30.4.2022. Thereafter, upon prayer made by the respondent nos. 11 to 14, reconstruction plan was approved by the Municipal Authorities. By order dated 23.2.2022 passed by the co-ordinate Bench of this Court in C.R.R. 3646 of 2019 a procedure was laid down to be followed by the Municipal Authorities and Police Authorities in case of such complaints. It was also prescribed that for dereliction of duties on the part of the police, appropriate action should be taken. In the instant case, the petitioner seeks appropriate action to be taken as against the erring Police Authorities who allowed the illegal construction to continue. Incidentally, petitioner lodged a complaint before the police, which was not acted upon.

Learned counsel appearing on behalf of the State relies on the report filed earlier and submits as follows. It is true that a stop work notice was issued by the Municipal Authorities. Thereafter the construction work remained suspended for about a year. Then the respondents 11 to 14 applied for reconstruction plan to be approved and the same was approved. It was only thereafter that the further construction work was allowed to continue. The fact that for a period of about one year the construction work was suspended was reported before a Single Bench in a writ petition who recorded the same. When the order was carried to appeal, the Division Bench granted liberty to the petitioner to file a fresh complaint.

Learned counsel appearing on behalf of the KMC submits that the Corporation did not find any mandatory violation at the premises. However, the order of approval of the reconstruction plan by the Special Officer could have been challenged by the petitioner.

It does not appear that in the writ petition the petitioner has prayed for any departmental action to be initiated against the Police Officer who allegedly allowed the construction to continue for a period of about one month. The prayers made in the writ petition are completely different.

Besides, there are no admitted fact to ascertain whether the police officer had actually permitted the private respondent to continue the construction for the said period of one month.

Therefore, this Court finds no reason to act upon the prayers made in the writ petition or on the submissions made by the petitioner before this Court.

Accordingly, the writ petition is disposed of, however, without any order as to costs.

Urgent photostat certified copy of the order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(JAY SENGUPTA, J.)

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