

OD-3

ORDER SHEET
IA NO: GA/1/2024
WPO No.1873 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SOUMO SEKHAR DUTTA & ORS.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 13th February, 2024.

Appearance:
Mr. Anup Kr. Mukhopadhyay, Adv.
Mr. Abhijit Sarkar, Adv.
...for the applicant/ respondent No.7

Mr. Alak Kr. Ghosh, Adv.
Mr. Raghunath Chakraborty, Adv.
Mr. Supratick Syamal, Adv.
Ms. Sonali Sengupta, Adv.
...for writ petitioners.

Mr. Biswajit Mukherjee, Adv.
Mr. Anand Farmania, Adv.
...for KMC.

The Court:- The instant application has been filed by Sri Binod Bihari Samal, one of the proforma respondents in the writ petition, for recalling the order dated 02.01.2024.

On a perusal of the said order it appears that, by the said order the Court has merely directed the parties to take steps in terms of the instruction that has been placed before this Court by the Executive Engineer of the Corporation. The said order was passed upon noticing the fact that a plan has already been sanctioned for construction of G+IV storied residential building under Section 393 of the KMC Act, 1980 read with Rule 142 of the Building Rules, 2009.

Specific contention of the applicant is that the said order was obtained upon non-disclosure and suppression of proper facts and abusing the process of the Court. It has been submitted that no objection from the proforma respondent being one of the tenants of the subject property has not been obtained and relying upon the order passed by this Court, the writ petitioner is applying force upon the proforma respondent to vacate the said property.

I am of the opinion that the same is absolutely a private dispute between the landlord and the tenants. The Court has not passed any order directing eviction of the tenants from the subject premises. If the proforma respondent alleges that the sanctioned plan has been obtained by practising fraud, then appropriate steps may be taken for revocation/cancellation of the sanctioned plan in accordance with law.

No order can be passed in the instant application. GA No.1 of 2024 stands dismissed.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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