

25.03.2025
Ct. No. 30
S.L No.26 & 27
Aloke

WPA 31191 of 2017
Sri Chandra Prakash Sarda & Anr.
Vs.
Kolkata Municipal Corporation & Ors.
WITH
WPA 15113 of 2015
Sri Chandra Prakash Sarda & Anr.
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Rohit Das
Ms. Kishwar Rahman
Ms. Sristi Roy
Ms. Anugraha Sundas

..... For the Petitioners

Mr. Biswajit Mukherjee
Mr. Subhrangsu Panda

..... For the KMC

Mr. Sakya Sen, Id. Sr. Adv.
Mr. Shivam Bhimsaria
Ms. Akansha Singhania

..... For the Respondent no. 8 & 9
in WPA 31191/17
&
For the Respondent no.
6 & 7 in WPA 15113/15

- 1.** Supplementary affidavit filed be kept with the record.
- 2.** The present writ application has been preferred praying for direction upon the respondents, restraining them from making any modification of the ramp without the permission of the municipal authorities and further directing the municipal authorities not to permit the private respondents to modify

the ramp without giving any opportunity of hearing to the petitioners.

- 3.** Pending hearing of the writ application this Court appointed a Special Officer and the Special Officer has placed his report today with copy to the parties.
- 4.** The grievance of the petitioners in the present case is that one of the ramps leading to the parking at the basement of the premises in this case has been demolished and the other is too low to enable a car to enter the car parking at the basement.
- 5.** The Special Officer conducted an inspection in the present case in presence of the parties herein and filed a report as follows:-

 - i. On the North-Western side of the building, the Special Officer found that the ramp leading to the basement was demolished and RCC construction was made in that place, where two cars were parked in the place earmarked 7A and 1B respectively.
 - ii. The Special Officer then inspected the other side that is East side of the building premises and found an alternative entry to the car parking at the basement through a ramp. The

measurement provided by the Special Officer has been noted in the report.

6. The Kolkata Municipal Corporation submitted before the Special Officer that on 19.02.2014 the Special Officer (Building) Kolkata Municipal Corporation gave sanction and regularized the said RCC construction which was made after demolition of the ramp leading to the basement at the North-Western side of the building premises. Documents in support of the said statement was not produced by the Corporation before the Special Officer.
7. The contention of the petitioner is that after a completion certificate has been issued in respect of the premises, the ramp was demolished and RCC construction was made without prior consent of the petitioners and the said sanction, followed by regularization of the construction was done by the Kolkata Municipal Corporation by keeping the petitioners in the dark.
8. **The Special Officer in his report has finally stated as follows:-**

“As far as the alternative entry leading to the basement for parking the car at the eastern side of the building premises is concerned, the petitioner contended that the petitioners are facing inconvenience to swerve their car

due to the space-crunch and low height after entering their car through the ramp that lead towards basement of the building premises and the respondent no. 12,14,17 and 19 had not raised any objection for accommodating their cars through that entry leading to basement although it is fact that none of these respondents had put their signature on the minutes of inspection proceeding after its completion. On inspection the Special Officer found that the SUV cars and other cars were parked at the basement of the said building premises as shown by the parties involved therein....”

9. Learned counsel for the respondents has relied upon the order of the Executive Engineer (Building) of KMC dated 25.04.2025 wherein as per direction of the High Court in an another writ application, the petitioners were given an opportunity of hearing.
10. It appears from the said order that in spite of being served prior notice, the petitioners did not attend the hearing. The officer concerned finally conducted the inspection, in the absence of the petitioners as they remained absent throughout in spite of being given specific prior notice.
11. **The Executive Engineer (Building), Borough IX, KMC in his inspection report dated 25.04.2025 held as follows:-**

“Inspection at side was carried out in presence of all parties involved. The main allegation raised by the complainant, petitioner No. 1 herein is that they have mentioned in the letter dated 17.04.2014, is that they are co-owners of flat 9A at 9th Floor of the said premises and complaining that the promoters are demolishing the ramp to the basement on the North-West site of the building without the consent, sanction or approval of Kolkata Municipal Corporation and on following such demolition the promoters have constructed RCC roof in violation to the K.M.C. Building Rules.

*Moreover one of car parking space allotted to the complainant is in basement for which they are facing serious problem. **On inspection it was found that the demolition of the ramp and following construction of the RCC structure, which claimed to be unauthorized by the complainant, is found legal as it was approved and regularized by competent authority of K.M.C.** Regarding car parking space of the complainant in the Basement, it has been observed that the **such space for car parking has not been encroached or impeded in any way by such construction.***

***Department also submits a plan showing sanction** of the structure which was claimed to be unauthorizely constructed by the respondent and I am*

satisfied and agreed with the report of the department dated 27.09.2014, that the construction is found to be legal.

Considering statements above I do not found any cogent ground for making any interference into the construction made by the private respondents and accordingly I do hereby dispose the representation dated 17.04.2014 of the writ petitioner without any order for action....”

- 12.** Considering the said report of the executive engineer and the **conduct** of the petitioners and the report of the Special Officer, this Court finds that the case of the petitioners herein has no merit and is thus dismissed and accordingly disposed of.
- 13.** All connected application, if any, stands disposed of.
- 14.** Interim order, if any, stands vacated.
- 15.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

[Shampa Dutt (Paul), J.]