

ORDER SHEET

WPO/990/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BHAKTI BHUSAN SARKAR
Versus
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 3rd April, 2025.

Appearance
Mr. Srikanta Dutta, Adv.
..for the petitioner

Mr. Gopal Chandra Das, Adv.
Ms. Ananya Das, Adv.
..for KMC

The Court: The petitioner preferred the present writ petition challenging the inaction of the respondent Corporation whereby the said respondent has failed to take any action against the unauthorised construction in the form of fifth floor being raised by the respondent no.4 at property number 2, Panditiya Place, Kolkata.

It is the case of the petitioner that he is one of the co-owners of the premises in question. He along with other co-owners had entered into a development agreement dated 03.11.2014 with the respondent no.4 for development of the said premises. Further, they had executed a registered Power of Attorney in favour of the respondent no.4. Respondent no.4 with an intention to develop the said property proceeded to obtain the sanction of the proposed development by the construction of a G+4 storied building. Consequently, on 14.10.2015 the private respondent no. 4 obtained the

sanction of the proposed building plan being B.P. No. 2015080067 dated 14.10.2015 from the respondent no. 1 (KMC).

The respondent no.4 delivered the possession of the petitioner's portion of the said building on 01.06.2022. However, subsequently disputes arose between the parties, culminating in an arbitration proceedings which is presently pending adjudication.

Learned counsel for the petitioner further contended that the respondent no. 4 has proceeded with the construction of an additional 5th Floor in blatant violation of the sanctioned plan. He had approached the corporation by way of a representation dated 22.07.2024. Despite the petitioner's representation to the respondent corporation on 22.07.2024, seeking redressal of the un-authorized construction, no action has been initiated by the respondent authorities, thereby compelling the petitioner to seek judicial intervention.

Learned counsel for the respondent Corporation submits that the dispute between the petitioner and developer has led to filing of the present writ petition and the said dispute is essentially civil in nature. Since the matter of unauthorised construction has been raised, the Corporation is ready and willing to consider the petitioner's representation dated 22.07.2024.

In view of the statement made by the learned counsel for the respondent Corporation, the counsel for the petitioner states that his client shall be satisfied if the same is decided within a time-bound manner.

In view of the said statement, this Court directs the respondent Corporation to decide the petitioner's representation dated 22.07.2024 within a period of six weeks from the date of communication of this order

after affording an opportunity of personal hearing to the petitioner as well as the private respondent, by way of a speaking order.

With the above direction, the present writ petition is disposed of.

(GAURANG KANTH, J.)

R.Bhar/kc.