

31.03.2022
Court No. 19
Item No.20
sn

WPA 2476 of 2022

Nirmal Kumar Khaitan & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Siddhartha Banerjee
Ms. Soni Ojha
Mr. S.N.Ghosh
Ms.Sambita B. Chatterjeefor the petitioners

Mr. Soumitra Mukherjee ..for the State

Mr. A.K.Mitra..Sr.Adv.
Mr. A.P. Agarwalla ..for the respondent no.4

Mr. Debjit Mukherjee
Mr. Anand Farmania ..for the KMC

The petitioners are the occupiers of 12/1, Keyatala Lane, Kolkata 700 029. The petitioners allege that the respondent no.4 has made some unauthorized constructions by constructing a pit for installation of a lift without the permission from the Corporation. It has been submitted that several damage have been caused to the property in question. A civil suit is also pending between the parties.

Mr. Mitra, learned Senior advocate appearing on behalf of the respondent no.4 submits that the other co-sharers have not objected to such installation of the lift. The lift will enure to the benefit of the co-sharers. That the wife of the respondent

no.4 is paralyzed and the lift is an absolute necessity. He further submits that the Corporation does not have any power to stop such construction. Mr. Mitra, also submits that his client intends to challenge the stop work notice.

Mr. Mukherjee, learned advocate for the KMC submits that installation of the lift, by digging a pit is a violation of the building rules. A stop work notice has been issued. The respondent no. 4 has replied to the said stop work notice.

Having considered the rival contentions of the parties, this writ petition is disposed of with a direction upon the Corporation to dispose of the representation of the petitioners in accordance with law, upon holding an inspection of the premises in question in presence of the parties. A report of such inspection shall be supplied to the parties. The parties shall be entitled to file their written versions/objections to the said report. The parties shall be entitled to adduce oral and documentary evidence in support of their respective claims and, thereafter, a reasoned order shall be passed and communicated to all concerned.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

As the Corporation have already issued a stop work notice and have intimated the police authorities of the same, no further interim order needs to be passed in favour of the petitioners. The stop work notice is still in operation.

This writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)