

41. 09.10.2023
bd. Ct.15

W.P.A. 20480 of 2018
IA No. CAN 1 of 2023

Asis Chakraborty @ Tukai Chakraborty
-vs-
The Kolkata Municipal Corporation & Ors.

Mr. R.N. Chakraborty
Mr. M. Ahmed ... for the petitioner.

Mr. Anjan Bhattacharya
Mr. Sujit Bhunia ... for the respondent
nos. 9 to 13

Mr. Alak Kumar Ghosh
Mr. Gopal Chandra Das ... for the KMC.

Mr. Tarun Kumar Das
Mr. Dilip Kumar Shyamal ... for the added respondents.

The writ petition as well as application being CAN 1 of 2023 are taken up for consideration in presence of the learned advocates representing the parties. By presenting the application being CAN 1 of 2023 applicants have prayed for being impleaded as respondents in the writ petition. Upon hearing the learned advocates representing the parties including the applicants in the application for addition of party this Court finds that before deciding the writ petition finally it would be apt to examine the application for addition of party. Accordingly, the application for addition of party is heard.

Learned advocate representing the applicants submits that by executing deed of conveyance dated 20th April, 2015 applicants have jointly purchased flat situated at 138, B/73, Bandipur Road under

ward No. 113, Borough No. XI. It has been submitted that in the writ petition implementation of the order of revocation of sanctioned plan dated 10th January, 2018 is prayed for by the petitioner on the count that the land on which construction has been made is classified as “Pukur”. It has been contended on behalf of applicants that if the writ petition is allowed and the KMC is directed to demolish the premises situated at the aforesaid holding number in that event applicants who are the flat owners could be severely affected.

Learned advocate representing the petitioner in effect has not opposed the prayer of the applicants for being arrayed as party respondents since they are the flat owners at the premises in question.

Having considered the submissions made on behalf of the parties this Court finds that the applicants are proper parties in view of the fact that if the order of revocation of sanctioned plan dated 10th January, 2018 is given effect to in that event the aforesaid building would be required to be demolished and the interest of the applicants being the flat owners would be affected.

In view of aforesaid scenario the application being CAN 1 of 2023 is allowed and disposed of thereby directing the department to amend the cause title of the writ petition and add the applicants as additional respondents within ten days from date.

Learned advocate for the applicants is directed to cooperate with the department in order to carry out such amendment.

After the aforesaid amendment is carried out the learned advocate for the petitioner is directed to serve copy of the writ petition upon the added respondents within one week after ensuing puja vacation.

On receipt of copy of the writ petition the added respondents shall be at liberty to file affidavit-in-opposition to this writ petition within two weeks thereafter. Affidavit-in-reply thereto, if any, be filed within one week thereafter.

List the writ petition for further consideration under the same heading in the monthly combined list of January, 2024.

Mr. Chakraborty, learned advocate representing the petitioner has made a prayer for supply of particulars of all flat owners/occupiers of the aforesaid premises in question by the learned advocate representing the respondent nos. 9 to 13 so that those flat owners/occupiers can be made as additional respondents in this writ petition.

Learned advocate for the respondent nos. 9 to 13 is directed to share the details of the flat owners/occupiers of the said building within ten days from date with the learned advocate for the petitioner and on receipt of details of the flat owners/occupiers learned advocate for the

petitioner is granted leave to amend the cause title and add those flat owners/occupiers as respondents.

If the flat owners/occupiers are added as respondents pursuant to the leave granted by this Court learned advocate for the petitioner is further directed to serve copy of the writ petition upon the aforesaid flat owners/occupiers within one week after ensuing puja vacation. On receipt of copy of the writ petition and notice from the learned advocate for the petitioner added respondents shall also be at liberty to file affidavit-in-opposition within two weeks thereafter and affidavit-in-reply thereto, if any, be filed within one week thereafter.

(Saugata Bhattacharyya, J.)