

ORDER SHEET

WP 791 OF 2016

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

ORIGINAL SIDE

ARIJIT PAUL & ANR.

Versus

THE KOLKATA MUNICIPAL CORPORATION & ORS.

.....

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

Date : 19th September, 2016.

Mr. Utpal Majumder, Mr. P. Kar, Mr. A. Banerjee...for petitioners.

Mr. B. Mukherjee, Mr. S. Bandopadhyay...for KMC.

The Court : The report of the Kolkata Municipal Corporation dated 15th September, 2016 is taken on record. This report was prepared further to the order dated 16th June, 2016 by Mr. Justice Chakraborty.

The writ petitioners are the owners of premises no.5, Jamadar Khan Lane, comprising of an area of 3 cottahs 14 chittacks.

Section 357 of the Kolkata Municipal Corporation Act, 1980 defines the regular line of a street. This regular line is defined by the Commissioner. In my understanding, it is a line in a map maintained by the respondent Corporation which takes into account the minimum width of the street and the footpaths running along with it. The line runs along the road. No building or construction can normally trench upon that line unless it is redefined by the Commissioner.

According to Mr. Majumder for the petitioners while allowing building on premises no.3, Jamadar Khan Lane, Kolkata Municipal Corporation relaxed the building line allowing the owner or developer to trench upon the original building line. Premises no.5, Jamadar Khan Lane of which the petitioners are the owners is exactly opposite to premises no.3, Jamadar Khan Lane.

According to the petitioners, this court should pass an order making a similar relaxation.

I am of the opinion that in making this relaxation many factual questions have to be considered. Moreover, section 357 invests the Commissioner with this power.

In those circumstances, I direct the Commissioner or his delegate, if permissible under the Kolkata Municipal Corporation Act, 1980 to consider the case of the petitioners to redefine the building line, in accordance with the observations made above after allowing the petitioners to adduce evidence, giving them an opportunity of hearing and by a reasoned order within two months of communication of this order. If the Commissioner finds that relaxation has been made in case of 3, Jamadar Khan Lane, he will exercise his discretion to make a relaxation in case of premises no.5, Jamadar Khan Lane to the extent required by the petitioners.

All the papers are before this court. Allegations, if any, contained in this petition are deemed not to have been admitted.

This writ application is, accordingly, disposed of.

Certified photocopy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(I. P. MUKERJI, J.)