

GAHC010129212020



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

WP(C)/1795/2019

SMT. BIMALA DEVI SAHEWALLA
W/O. LT. MOHAN LAL SAHEWALLA
R/O. WARD NO. 7
GAR ALI JORHAT
ASSAM-785001.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. THROUGH THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
STATE MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI-06.

2:JORHAT MUNICIPAL BOARD

JORHAT REP. BY THE CHAIRMAN (INCHARGE)
A T ROAD
MALOW ALI
JORHAT
ASSAM-785001.

3:PABAN BORDOLOI

CHAIRMAN (IN CHARGE)
A T ROAD
MALOW ALI
JORHAT
ASSAM-785001.

4:SMT. KRISHNA GOGOI
W/O. SRI BISWAJIT GOGOI
R/O. OPPOSITE GURUDWARA
GAR ALI
JORHAT
ASSAM-785001.

Advocate for : MR G N SAHEWALLA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS.

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 12-12-2024

Heard Mr. G.N. Sahewalla, learned Senior counsel assisted by Ms. K. Sarma, learned counsel for the petitioner. Also heard Mr. N. Goswami, learned State counsel appearing for the respondent No.1; Ms. R. Deka, learned counsel appearing for the respondents No. 2 and 3 and Mr. M.K. Sarma, learned counsel for the respondent No.4.

2. By filing this writ petition, the petitioner has put to challenge the communication dated 12.03.2019 issued by the Vice Chairman, Jorhat Municipal Board, Jorhat, whereby it is intimated that although the petitioner has taken permission from Jorhat Municipal Board for construction, but her resident neighbor has filed a complaint before the Board and until the complaint is solved, the construction is directed to be stopped, else action will be taken against the petitioner under the relevant laws.

3. It is submitted at the Bar that during the pendency of the writ petition, the authorities of the Municipal Board has caused an inspection and accordingly, an inspection report has been submitted which is quoted herinbelow:-

“Inspection Report regarding construction of a Commercial building being constructed by Sri Bimala Devi Sahewalla at Gar-Ali, Ward no:7. The following points came into notice during site visit made on 29-01-2021.

- 1) Area of the building has been constructed more than the approved plan, which is within the compoundable limit
- 2) Front, Rear & Side setbacks have been constructed violating the norms of the approved plan, which are within compoundable limit.
- 3) Front Staircase from made up Ground Level to 1 Floor level has been constructed without any approval, which is Non-compoundable.
- 4) Design and Height of the Roof Protection Shed/Rain Water Harvesting Structure at Terrace level is constructed violating the approved drawing. The approved single way slope roof has been converted to two way slope roof with an increased height of 0.34 meter than the approved drawing."

4. Mr. G.N. Sahewalla, learned senior counsel submits that since the respondent authorities have caused an inspection, thereafter report has been submitted, the petitioner may be allowed to file a representation before the appropriate authority as the authorities are competent to determine the issue.

5. Learned counsel for the respondents fairly submits that they would not have any serious objection to such prayer for filing the representation.

6. Having considered the submissions of the learned counsel for the petitioner and on perusal of the inspection report, I deem it appropriate to accept the prayer of the learned senior counsel appearing for the petitioner.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to file a representation before the respondents No.2 and 3 within a period of 15 (fifteen) days from today. On filing of such representation, the respondents No.2 and 3 namely, Jorhat Municipal Board represented by its Chairman shall consider and dispose of the representation in accordance with the relevant Rules within a period of 2 (two) months from the date of receipt of the representation.

8. Writ petition is disposed of in terms of above.

JUDGE

Comparing Assistant