

GAHC010293502023



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

Case No. : WP(C)/52/2024

RAVI DASSANI AND 3 ORS
S/O LATE JAICHAND LAL DASSANI,
R/O FLAT NO. 502, BLOCK -C, ASTHA PRESTIGE, N.S. ROAD, FATASHIL,
GUWAHATI-781009

2: SRI SWAROOP JAIN
S/O LATE RATANLAL LALWANI
R/O FLAT NO. 701
ASTHA PRESTIGE
N.S. ROAD FATASHIL
GUWAHATI-781009.

3: SRI RAMESH KUMAR
S/O LATE DWARKA PRASAD
R/O A- 203 AASTHA PRESTIGE
N.S. ROAD FATASHIL
GUWAHATI-781009

4: SRI RAJESH GUPTA
S/O SRI DAYANAND GUPTA
R/O A 105 ASTHA PRESTIGE
N.S. ROADFATASHIL
GUWAHATI -781009

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY, GOVT. OF ASSAM,
GUWAHATI DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE GUWAHATI MUNICIPAL CORPORATION
PANBZAAR
GUWAHATI-781001
KAMRUP (M)

ASSAM

3:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-781001
KAMRUP (M)
ASSAM

4:THE ASSOCIATE PLANNER
GUWAHATI MUNICIPAL CORPORATION PANBAZAR
GUWAHATI-781001
KAMRUP (M) ASSAM

5:NOWRANGROY METALS PRIVATE LIMITED
A PRIVATE LIMITED COMPANY HAVING ITS OFFICE AT GAURAV BHAWAN
2ND FLOOR D NEOG PATH
BEHIND DONA PLANET
ABC G.S. ROAD
GUWAHATI-78100

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : SC, GMC

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

08.01.2024

Heard Mr. R. Dubey, learned counsel for the petitioners and Mr. S. Bora, learned Standing Counsel, GMC and GDD for the respondent nos. 1 to 4.

2. It is the case of the petitioners, 4 [four] in nos., that they purchased flats in a multistoried RCC building constructed by the respondent no. 5. The said multistoried RCC building is at N.S. Road, Fatasil, Guwahati. Though the petitioners had purchased the flats from the respondent no. 5 by executing registered sale deeds which provided for certain facilities and amenities the grievances of the petitioners are that they have been deprived of the said facilities and amenities.

3. Mr. Dubey, learned counsel for the petitioners has submitted that there have been

violations as regards parking facilities within the premises of the multistoried RCC building, contrary to the assurances recorded in the sale deeds. It has come to the knowledge of the petitioners that the respondent no. 5 while constructing the multistoried RCC building and also after completion of construction of the multistoried RCC building, has made blatant violations of the permission granted by the respondent GMC authorities. Mr. Dubey has further submitted that in the approved plan, there was no provision for construction of any room[s] either at the basement or at the terrace of the building. But the respondent no. 5 has illegally constructed 10 [ten] nos. of rooms in the basement and 2 [two] nos. of rooms at the terrace and thereafter, sold the same to some third parties. He has further submitted that the respondent no. 5 has illegally increased the number of parking spaces in the said multistoried RCC building. The respondent no. 5 has even illegally used the area sanctioned and earmarked for children's play ground as the respondent no. 5 has utilized the area for construction of additional parking spaces illegally and has thereafter, also sold-off the same to third parties. It is submitted that highlighting all the above and other illegalities and deviations, the petitioners have submitted Representation before the respondent no. 3 on 23.05.2022, followed by a reminder Representation on 05.09.2023. The grievances of the petitioners are that despite bringing all the illegalities and deviations committed by the respondent no. 5 to the notice of the respondent no. 3, the respondent authorities in the GMC including the respondent no. 3, have not given due consideration to the Representations, dated 23.05.2022 & dated 05.09.2023, till date as no discernible steps to address and mitigate the grievances of the petitioners are found to have been taken. Alleging such inaction on the part of the respondent authorities, the petitioners have approached this Court by the instant writ petition.

4. Mr. Bora, learned Standing Counsel, GMC & GDD has submitted that since the petitioners have already highlighted their grievances by stating about the alleged illegalities and deviations in respect of the construction of the multistoried RCC building and other constructions connected therewith before the respondent no. 3, the same would deserve due consideration. He has submitted that since the petitioners have alleged that the Representations, dated 23.05.2022 & dated 05.09.2023, have not been given due consideration till date, the writ petition can be disposed of at this stage with a direction to the respondent no. 3 to take those representations on board to examine the veracity of the petitioners' claims regarding alleged illegalities and deviations committed in respect of the construction of the multistoried RCC building and all other

constructions, by the respondent no. 5.

5. Mr. Dubey, learned counsel for the petitioners has submitted that the petitioners be also afforded opportunities of hearing before disposal of the Representations by the respondent no. 3 so as to enable the petitioners to submit supporting materials in support of their contentions as regards the alleged illegalities and deviations.

6. In view of the projections made on behalf of the petitioners in the afore-stated manner and considering the fact that the Representations, dated 23.05.2022 & dated 05.09.2023, have not yet been disposed of by the respondent no. 3, this Court is of the view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent no. 3 to take the Representations submitted by the petitioner on 23.05.2022 and on 05.09.2023 on board for consideration with reference to the grievances of the petitioners regarding the alleged illegalities and deviations committed by the respondent no. 5 in construction of the multistoried RCC building and other connected constructions, referred therein. It is observed that such consideration shall be made by taking into consideration the provisions of the GMC Act, 1971 and the Bye-Laws framed under it. It is further observed that while undertaking such exercise, due opportunities of hearing and also to submit supporting materials should be afforded to both the sides, that is, the petitioners' side and the respondent no. 5's side, after issuance of notices to them for their appearances. As the exercise might require field verification, this Court is of the view that such exercise shall be completed within a period of 2 [two] months from the date of submission of a certified copy of this order by the petitioners at the office of the respondent no. 3. This order disposes of the writ petition.

JUDGE

Comparing Assistant