

22.12.2020
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RP Ct.04

WPA 17465 of 2019
Soumyadeep Dutta
Vs.
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya	
Mr. Biswajit De	 For petitioner
Mr. Anami Sikder	
Mr. Animesh Bhattacharya	 For Municipality
Mr. Rabindranath Mahato	
Mr. Aritra Sankar Roy	 For private respondents

Mr. Bhattacharya, learned advocate appears on behalf of petitioner and submits, his client had applied for sanction of a plan and there being deemed sanction, constructed a shop room. On 18th February, 2020 a purported statement of facts was filed by the Municipality, to which he has filed two exceptions, having divided the statement into two parts to be dealt with separately.

Mr. Sikder, learned advocate appears on behalf of the Municipality and relies on the statement of facts dated 4th February, 2020. Following from the statement is extracted and reproduced below.

“From perusal of the file and enquiry of the spot it appears that petitioner Soumyadeep Dutta has made his one room (shop room) 5 years ago in his land (area 0.0055 acres approx) on R.S. Plot No.1645(P) Mouza: Bibigunj, J.L. No.180 without getting prior permission from this end not leaving the necessary space as provided in the WBM Act. & Rules.

On the other hand Pvt. Respondent Smt. Khuku Mondal and Ramen Mondal have developed their old room by repairing works with a view to making shop room upon their own land (area 0.0039 acres approx) on the same plot without having prior permission from this end.

In the meantime Sri Soumyadeep Dutta filed a Court case before the Ld. Executive Magistrate, Midnapore Sadar, Paschim Medinipur under Ptn.Case No.447/2019 and this administration is as pause for taking action due to said sub-judice matter.”

Mr. Bhattacharya submits, private respondents had a tin shed shop room, which has been demolished and pucca shop room encroaching upon his client's land constructed. Obviously the Municipality is with private respondents. Mr. Sikder disputes the submission. Mr. Mahato, learned advocate appears on behalf of private respondents and submits, his clients have not encroached upon petitioner's land.

The Municipality will initiate appropriate proceeding in respect of private respondents' shop room. It will decide on whether the construction is illegal and required to be demolished or there should be retention. The proceeding will be on notice to petitioner and private respondents and to be concluded by six weeks from date of communication of this order. Decision taken must be without being influenced by the statement of facts filed in this writ petition and made known to them, to be implement forthwith thereafter.

It is recorded that copies of exceptions have only been served upon the Municipality and not on private

respondents. Petitioner will serve copies on private respondents as condition precedent to be heard by the Municipality.

WPA 17465 of 2019 is disposed of.

(Arindam Sinha, J.)