

December 29, 2020

ARDR
(04)

WPA 11397 of 2020

Tamojit Roy & anr.

Vs.

The Bolpur Municipality & ors.

Mr. Srijib Chakraborty,

Mr. Sunny Nandy,

...for the petitioners.

Mr. Kalyan Bandhopadhyay, Sr. Adv.,

...for the respondents.

The writ petitioners have challenged a demand notice dated December 9, 2020 issued by the Chairperson, Bolpur Municipality whereby the petitioners were directed to deposit the balance fees of Rs.32,25,000/-. It was also observed therein that the construction of G+IV storied structure is in violation of the West Bengal Municipal Act (Building Rules). By the said notice the municipality indicated that in case the petitioners fail to comply with the said notice, legal action will be taken against the petitioners.

Mr. Chakraborty, learned advocate for the petitioners submits that the said demand notice is silent about the sanction of the revised building plan.

He further submits that nothing remains due from the petitioners on account of plan fees as well stack fees.

He further submits that the municipal authority, without making any inspection of the said property, has observed that the construction of G+IV storied

structure is in violation of the West Bengal Municipal Act and the Building rules. Such observation, according to Mr. Chakraborty, is without any basis.

Mr. Bandhopadhyay, learned senior advocate appearing on behalf of the Bolpur Municipality submits that a notice dated September 10, 2020 was served upon the petitioners herein directing them to submit all the relevant papers before the Members of Board of Administrators. He submits that the petitioners did not produce the relevant papers in support of the construction made by the petitioners herein and as such the Municipality was compelled to issue the demand notice. He submits that the construction made by the petitioners is unauthorised and illegal.

Mr. Bandhopadhyay further submits that the petitioners have only deposited a portion of the actual plan fees and the municipality is entitled to claim the balance thereof as well as stacking fees on account of revised plan.

I have heard the learned advocates of the respective parties and have also perused the materials on record.

After going through the demand notice dated December 9, 2020, it appears that the said notice is silent about the sanction of the revised plan though it appears from the record that a revised plan was sanctioned. The said demand notice is also silent as to

whether the balance plan fees is with regard to the original sanction plan or the revised sanction plan. The demand notice does not clearly state as to whether the stacking fees relates to the period after the original plan was sanctioned or the revised plan. It also does not indicate as to whether any inspection was carried out or not. Thus, the observation made in the demand notice that the G+IV structure is constructed violating the West Bengal Municipal Act and the Building rules is without any basis. Since the demand notice is a vague one and is without any basis the same is liable to be set aside.

It is not in dispute that after issuance of the demand notice no further legal action has been taken against the petitioners herein.

Accordingly, the demand notice dated December 9, 2020 is set aside and quashed. However, the municipality will be at liberty to proceed against the petitioners in accordance with law with regard to all the issues relating to construction of G+IV structure in Mouza – Bolpur, J.L . No.99, Plot no. 2007, L.R. Khatian No. 21978, Holding Premises no. 82/60/1 & 2, Shantiniketan Road, Ward No.3, Bolpur, Birbhum including the issues raised in the demand notice dated December 9, 2020.

It is recorded that Mr. Chakraborty learned Advocate for the petitioners has submitted that the

petitioners have already completed the construction work and no further construction work is being carried on by the petitioners at the premises in question.

With the aforesaid directions, WPA 111397 of 2020 is disposed of. There will be no order as to costs.

(Hiranmay Bhattacharyya, J.)