

27.01.2021
SL No.7
Court No.24
(P.M.)

WPA 245 of 2021

**Asoke Basu @ Ashoke Basu & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Arindam Sen,
Mr. Sandeep Prasad Shaw

... for the petitioners
Mr. Billwadal Bhattacharyya,
Mr. Anish Kumar Mukherjee
... for respondent No. 3 to 7.

Mr. Ashok Kumar Singh
Mr. Sk. Mujibar Rahaman
..... for respondents.

Affidavit of service filed in court is kept with the record.

The petitioners are aggrieved by the notice dated 30th December, 2020 issued by the Chief Architect, New Town Kolkata Development Authority whereby the petitioners have been directed to remove the unauthorized structure within a stipulated time frame, failing which the authority would remove such unauthorized construction and the removal cost will be charged to the concerned shop owners.

The petitioners submit that they had purchased the shop room Nos. G3 and G4 at NBCC shopping complex of NBCC VIBGYOR Towers, New Town, Kolkata upon payment of valuable consideration.

The area in question which was purchased by the petitioners comprised of the common portions along with the permissible modifications, i.e. rain shed etc. with the right to user and enjoyment thereof.

The petitioners submit that apart from the rain shed no other construction has been made by the petitioners.

A bare perusal of the notice impugned in the writ application gives an indication that some illegal constructions in the common area of the shopping complex have been made. The same according to the authority is beyond the sanctioned drawing. The notice does not specify in details of the illegal constructions that was made by the petitioners. In the absence of the details of the illegal construction being specifically mentioned in the notice for removal of unauthorized structures, it will not be possible for the petitioners to exactly identify the construction(s) which has been alleged to be illegal. The notice is vague and does not contain the necessary details.

In view of the above, the impugned notice dated 30th December, 2020 is set aside. The New Town Kolkata Development Authority is directed to take steps, strictly in accordance with law to proceed with the alleged illegal construction. In the event any unauthorized construction is being noticed, the same shall be clearly intimated prior to directing the petitioners to remove such unauthorized construction.

WPA 245 of 2021 stands allowed and accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)