

18.11.2021
Court No. 19
Item no.08
CP

WPA 2424 of 2020

Smt. Nihar Dutta
Vs.
State of West Bengal & ors.

Mr. Indranil Chakrabarty
Mr. B. Lahiri

.....for the petitioner.

Mr. Amitava Mukherjee
Ms. Mum Mun Dubey
Ms. Arpita Saha
Mr. A. Ghosh

....for the respondents 7 to 9.

Ms. Sutapa Sanyal
Ms. R. Ghatak

.....for the State.

Affidavit of service is taken on record. Despite service, none appears on behalf of the Baranagar Municipality.

There seems to be a long standing dispute between the petitioner and the respondent nos. 7 to 9. It has been alleged that the respondent nos. 7 to 9 have made certain unauthorized constructions and are continuing to raise unauthorized constructions on Premises No. 14 Prafulla Chaki Road. Records reveal that the petitioner occupies Premises No. 14/1 Prafulla Chaki Road, which is adjacent to the premises of the petitioner. Records reveal that several proceedings have been initiated before the Human Rights Commission as also the Commission for

Women. Complaints were also raised before the police authorities. However, these issues are not to be decided in this writ petition. This writ petition is restricted to the allegation of unauthorized construction.

Mr. Mukherjee, learned advocate appearing on behalf of the respondent nos. 7 to 9, submits that a complaint was raised long before, i.e., in the year 2014 and on the basis of such complaint an inspection was made by the municipality. Some minor deviations were detected. On the direction of the municipality, the unauthorized construction was demolished by the said respondents. Subsequent thereto, no other complaint has been lodged with the municipal authorities.

Records also do not reveal that after the alleged demolition of the unauthorized portion, the petitioners had raised any objection with regard to the further constructions.

The police authorities have also submitted through their learned advocate that the allegations could not be substantiated by the petitioner.

Having considered the rival contentions of the parties, this court is of the opinion that the writ petition should be disposed of with the following directions:

- a) If the petitioner wishes to repair any portion of her premises, she is at liberty to do so upon intimation to the municipality but such repair can only be allowed if it is permissible under the law.
- b) If the petitioner wants to make any addition or alteration to her premises she will be at liberty to approach the municipality for permission in accordance with law.
- c) If the petitioner is apprehensive that the machinery being used by the respondent nos. 7 to 9 for construction on Premises No. 14 Prafulla Chaki Road would damage her property, the petitioner may raise objections before the municipal authorities and such complaint shall be looked into by the municipality.
- d) The respondent nos. 7 to 9 shall act and proceed in accordance with law and shall not make any construction in deviation of any plan or without any plan.

The petitioner is always at liberty to approach the municipality in future if she has any grievances but the records do not reveal that after 2014 the petitioner have raised any objection before the municipality.

With the above directions the writ petition is, thus, disposed of. The other allegations of the petitioner in the writ petition are not dealt with and/or considered. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)