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WPA 4254 of 2020
with
I.A No. CAN 1 of 2020(Old No. CAN 3040 of 2020)
CAN 2 of 2020(Old No. CAN 3048 of 2020)

Ashraf Ali Mondal
Vs.
The State of West Bengal & Ors.

Mr. Ashim Kumar Raut
... For the Petitioner

Mr. Mohinoor Rahaman
Sk. Abumusa
Mr. Sirajul Haque Mondal
... For the Respondent no. 6

Mr. Pinaki Bhattacharyya
Mr. Debjyoti Maity
... For the Respondent nos. 7 & 8

Mr. R.N. Chakraborty
... For the Maheshtala Municipality

Mr. Srijib Chakraborty
... For the State

The petitioner challenges the illegal and unauthorized construction being made by the private respondents in L.R Dag Nos. 541 and 542, Mouza-Panchur, District- South 24 Parganas, Block-Thakurpukur Maheshtala, J.L. No. 3, Police Station- Rabindra Nagar.

According to the petitioner the sanction plan, which was obtained for making the aforesaid construction, was obtained upon misrepresentation and fraud.

The petitioner relies upon the record of rights in respect of the aforesaid plots and submits that the classification of the said lands are 'Danga' and 'Pukur'.

The petitioner submits that pursuant to the leave granted by the Court by an order dated

23rd December 2019 passed in WP 21310(W) of 2019, the petitioner was given the liberty to inspect the sanction plan in respect of the aforesaid premises, wherefrom it appears that the plan had been sanctioned upon total misrepresentation of facts.

The petitioner prays for a direction upon the Municipal authority to rescind the sanction plan and demolish the unauthorized construction.

Learned advocate representing the respondent nos. 7 & 8 submits that they had purchased the land long back and made construction thereon on the basis of the plan sanctioned by the Maheshtala Municipality.

Learned advocate representing the respondent no. 6 submits that the construction had been made in the land which is recorded in their name, in accordance with the plan sanctioned by the Municipality.

Learned advocate representing the Officer-in-Charge of Rabindra Nagar Police Station submits that an inspection had been conducted and no water body has been found in the address, as mentioned.

Learned advocate representing the Maheshtala Municipality submits that presently the Board of Councillors is not functioning and the Administrator has taken over charge of the Municipality.

It has been submitted that as the petitioner alleges misrepresentation and fraud at the time of sanctioning the building plan, the same is liable to be looked into by the Municipality in terms of Section 217 of the West Bengal Municipal Act, 1993.

Upon hearing the submissions made on behalf of the parties and upon perusal of the materials on record, it appears that the

petitioner is able to make out a case that plan has been sanctioned in respect of the land recorded as 'Danga' and 'Pukur'.

The Municipality shall enquire into the matter as to how the plan could be sanctioned in respect of the land, which has been recorded as Danga and Pukur.

Accordingly, the petitioner is granted leave to make a comprehensive representation along with supporting documents highlighting the illegalities committed in the matter prior to obtaining the sanction plan.

In the event such a representation is made by the petitioner, the Administrator of the said Municipality shall consider the same, in accordance with law, after giving an opportunity of hearing to the petitioner and all other necessary parties within a period of three months from the date of making the representation.

The Administrator shall pass a reasoned order and communicate the same to the petitioner and all other necessary parties immediately thereafter.

It is made clear that the Municipality shall consult all the records in the matter prior to taking a decision pursuant to the representation made by the petitioner.

WPA 4254 of 2020 along with all connected applications stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)

