

17.09.2021
Sl. No.8
srm

**W.P.A. No. 4428 of 2019
(CAN 1 of 2021)
Ashim Kumar Bag
Vs.
The State of West Bengal & Ors.**

Mr. Amal Kumar Banerjee
...for the Petitioner.

Mr. Syamal Kumar Das,
Ms. Smita Paul
...for the Barrackpore Municipality.

Despite service, none appears on behalf of the Respondent No.7. Affidavit of service is taken on record.

The petitioner alleges unauthorised construction by the respondent No.7 on RS Dag Nos.577 and 6425 pertaining to Khatian No.680, Mouza-Chank, Holding No.66/2/1(old) at Jogen Ray Road, Ward No.19 under Barrackpore Municipality, District-North 24-Parganas.

It is the specific contention of the petitioner that the respondent No.7 started construction on the aforesaid land without leaving adequate side space and without any sanction plan. Accordingly, the petitioner filed an application before the Executive Magistrate, Barrackpore. The Executive Magistrate, Barrackpore directed the police authority of Titagarh Police Station to enquire into the matter and to file a report. The petitioner contends that the municipality although informed

about such illegal construction, failed to take steps and refrained from issuing a stop work notice thereby allowing the illegal construction to continue.

It appears that a civil suit has also been filed by the respondent No.7.

Mr. Das, learned Advocate appearing on behalf of the Barrackpore Municipality, files the original sanction plan granted by the municipality to the respondent No.7 for construction of a double storeyed residential building under the Pradhan Mantri Awas Yojana housing for all urban areas.

The layout and the plan with specifications are all provided by the municipality. It is submitted that Rule 56 of the West Bengal Building Rules, 2007 has been applied in this case and as such the municipality did not find any illegality in the building raised by the respondent No.7.

Thus, the first contention of the petitioner that the building has been constructed without sanction plan is not accepted. The alternative argument of the petitioner that if at all a plan had been sanctioned, the same was a *post facto* sanction after the writ petition was filed is also not accepted. The original plan has been produced before this Court from which it appears that the plan was sanctioned sometime in October, 2018 by the authorities upon complying with the rules and regulations. The writ petition was filed on February

20, 2019. The application filed before the learned Executive Magistrate, Barrackpore is also subsequent to the sanction of the plan.

Under such circumstances, no order can be passed in the writ petition. However, if the petitioner approaches the authority with further details of alleged deviations from the sanction plan in not leaving adequate side space or otherwise, in that case, the municipal authorities shall take steps in accordance with law upon giving an opportunity of hearing to all concerned. This question has not been dealt with by this Court in this proceeding.

This writ petition is, thus, disposed of.

In view of disposal of the writ petition, the connected application has become infructuous and the same is disposed of accordingly.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)