

21.09.2021
Court No. 19
Item no.19
CP

WPA 7914 of 2021

Vivekananda Das & anr.
Vs.
State of West Bengal & ors.

Mr. Sudeep Sanyal
Mr. Snehasis Jana
Mr. Sukanta Das

.....for the petitioners.

Mr. Asish Kumar Guha
Mr. Naren Ghosh dostidar

.....for the State respondents.

Mr. Swarup Kumar Ghosh

....for the respondents 4, 5 & 6.

Mr. Haradhan Banerjee
Mr. S. Mondal
Mr. P. P. Mukhopadhyay

...for the private respondents.

The petitioners contend that the respondent nos. 12 and 13 have raised a construction on Plot No. 1260 adjoining to the petitioners' land situated at Plot No. 1259 in Mouza-Kushpota, Gobindapur, J.L. No. 145, P.S. Ghatal, Paschim Medinipur, Ward No. 17 under Ghatal Municipality. Reliance is placed on an information issued by the ward coordinator, Ghatal Municipality to the administrator of the Ghatal Municipality indicating, prima facie, that the respondents 12 and 13 did not have any sanction in

respect of the construction raised on the alleged premises.

Mr. Sanyal, learned advocate appearing on behalf of the petitioners, submits that the municipality should take immediate steps for demolition of the said construction.

Mr. Banerjee, learned advocate appearing on behalf of the respondents 12 and 13, submits that the construction was made way back sometime in 1995 on the basis of a deemed sanction, by operation of law. He also submits that prior to coming into force of the West Bengal Municipal Act, 1993, the plan seeking sanction was submitted before the authorities and as the authorities failed to take steps within the prescribed period under the statute, the plan was deemed to be sanctioned by operation of law and, accordingly, the construction was made.

This court is of the opinion that it is for the municipality to consider whether the contention of Mr. Banerjee is correct or not. Further, it is for the municipality to see whether the construction has been made as per the other provisions of the Act and the Rules including whether the deeming provision would be applicable in this case. It is also for the municipality to see whether the notice of commencement was given and a completion

certificate was obtained from the municipality in accordance with law.

The writ petition is disposed of with a direction upon the competent authority and/or the board of administrators of the Ghatal Municipality, as the case may be, to initiate proceedings in accordance with law and reach the said proceeding to its logical conclusion upon hearing the petitioners as also the respondent nos. 12 and 13.

It is made clear that all the parties shall be allowed to be present at the time of inspection to be held by the municipality. The parties shall be supplied the report of inspection. The parties will be heard and allowed to submit all their documents in support of their contentions.

Thereafter, a reasoned order shall be passed and communicated to all on the basis of what transpires in the inspection and at the hearing.

This court has not gone into the merits of the claims and counter-claims of the parties. The entire exercise shall be completed within a period of four months from the date of communication of this order.

As affidavits are not called for, the allegations are deemed to be denied and it is left to the municipality to decide all the issues raised in the writ petition.

This writ petition is, thus, disposed of. There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)