

S/L 24
23.11.2021
Court. No. 19
GB

WPA 9675 of 2021

Sunayana Devi
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Sanjib Seth.

...for the Petitioner.

*Mr. Santanu Kumar Mitra,
Mr. Mirza Kamruddin.*

...for the State.

*Mr. Sandipan Banerjee,
Mr. Ankit Sureka.*

...for the H.M.C.

Mr. Animesh Paul.

...for the Respondent Nos.9 to 11.

Affidavit-of-service filed in Court today be kept with the record.

The writ petition has been filed against an alleged unauthorized construction on Holding No.31, Madan Biswas Lane, P.S. Golabari, District – Howrah, 711106.

It is the contention of the petitioner that the respondent nos.8 to 11 and of their men and agents have been constructing unauthorizedly on the said holding without a sanction plan. It is prayed that the Corporation be directed to take steps on the basis of the complaint, which appears at Page-12, Annexure – P1 to the writ petition.

Mr. Paul, learned advocate appearing on behalf of the respondent nos.9 to 11 submits that a civil suit is pending

between the developer and the land owners and an order of status quo has been passed.

The civil court does not have any jurisdiction to decide the question of unauthorized construction or the extent of unauthorized construction and it is only the municipal authority which can take appropriate steps with regard to such unauthorized construction.

This Court is of the opinion that proceedings must be initiated on the basis of the complaint made by the petitioner. The said complaint must be disposed of upon hearing the petitioner as also the respondent nos.8 to 11. Prior to giving a hearing to the parties, an inspection shall be made of the premises in question. The report of inspection must be handed over to the parties. Thereafter upon hearing the parties, a reasoned order shall be passed and communicated to all concerned. The parties shall be allowed to produce all documents and adduce evidence in support of their respective contentions. Such proceedings shall be reached to its logical conclusion in accordance with law.

The respondent nos.8 to 11 shall also be entitled to produce the records with regard to the civil suit before the competent authority of the Corporation.

The parties shall also be at liberty to approach the civil court for appropriate orders upon conclusion of the proceeding.

This Court has not gone into the merits of the claim and counter-claim of the parties and the Howrah Municipal

Corporation shall dispose of the proceeding independently without being influenced by any observations made hereinabove. The Corporation shall only enquire and proceed on the allegation of unauthorized construction and no other point shall be decided by the Corporation.

The entire exercise shall be completed within a period of four months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)