

Court No. 24

28.06.2021

(Item No. 21)

(AB)

**W.P.A 10664 of 2021
(Via Video Conference)**

Poly Biswas & Anr.

vs

The North Barrackpore Municipality & Ors.

Mr. Rananeesh Guha Thakurta

..... for the petitioners

Mr. Chayan Gupta

Mr. Sayantan Chatterjee

..... for the private respondents

Mr. Subhabrata Das

Mr. Kartick Kumar Goyal

... for the North Barrackpore Municipality

Leave granted to the learned advocate appearing for the private respondents to file the Vokalatnama in the department within a week.

Affidavit of service filed in Court today is taken on record.

The petitioners allege illegal and unauthorized construction in the holding No. 119, Ward No. 23 at Debdar Park, Monirampore, Barrackpore, District – North 24 Parganas, Kolkata 700 120. The petitioners rely upon a communication dated 31st December, 2020 by the North Barrackpore Municipality in response to an application filed under the Right to Information Act, 2005 wherein it has been mentioned that no record has been found regarding sanction plan in respect of the aforesaid holding.

The learned advocate appearing on behalf of the private respondents denies the allegation made by the petitioners. It has been categorically submitted that the alleged construction was made prior to the

year 1994 and the same had been constructed strictly in accordance to the plan sanctioned by the Municipality.

It has further been submitted that the writ petition has been filed out of vengeance as the private respondents complained about the illegal and unauthorized construction being carried on by the petitioners herein by demolition their boundary wall. It has further been pointed out that the private respondents were compelled to file a writ petition before this Court praying for necessary relief. The said writ petition being WPA 7111 of 2020 is pending disposal till date.

The learned advocate representing the North Barrackpore Municipality submits that there are private disputes in between the parties and the Municipality is not the proper authority to decide the same. It has further been pointed out that civil suits are pending considering in between the parties before the learned Trial Court.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

It appears from the submissions of the parties that the representation filed by the petitioners before

the Board of Administrators of the North Barrackpore Municipality is pending consideration till date.

The instant writ petition is accordingly disposed of by directing the respondent No. 1, being the North Barrackpore Municipality to take necessary steps for consideration of the representation filed on behalf of the petitioners on 10th May, 2021 annexed at page 63 of the writ petition strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioners, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding

right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 10th May, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)