

12.04.2021
SL No. 11
Court No.24
(P.M.)

WPA 8723 of 2019
Arup Pakrashi
Vs.
The Baranagar Municipality & Ors.

Mr. Dipanjan Bhattacharya,

... for the petitioner

Mr. Ranajit Chatterjee,

Mr. Arijit Dey

... for the Baranagar Municipality

Mr. Supriya Ranjan Saha

.. for the private respondent

The petitioner alleges unauthorized construction of a verandah in the premises No. 77/22, Dr. Nilmoni Sarkar Street, Kolkata 700090.

Pursuant to an order passed by this Court in the earlier writ petition filed by the petitioner the Baranagar Municipality took a resolution on 19th November, 2018 wherein it has been recorded as follows : -

“It appears that the said verandah exists since long and hence after a threadbare discussion the Board of Councilors decided that the matter be considered and disposed of”.

From the documents annexed to the writ petition it appears that the Sub-Assistant Engineer of the Baranagar Municipality on 6th August, 2018 in Memo No. 027 specifically mentioned that on inspection it was found that 6ft 7inches x 3ft more or less a projection on the first floor

of the Western side of the building has been illegally constructed.

The learned advocate representing the private respondent submits that his client purchased the property in the year 2006 along with the said verandah.

The learned advocate for the petitioner submits that an application was made by the private respondent for regularizing the unauthorized construction.

The petitioner has submitted that the mandatory side open spaces have been encroached upon in view of such unauthorized construction.

The resolution of the Board of Councilors dated 19th November, 2018 does not clearly mention whether the aforesaid unauthorized construction has been allowed to be retained or whether the same is required to be demolished. It only mentions that the verandah exists since long. It also mentions that there was a threadbare discussion. The details of the threadbare discussion have not been mentioned in the resolution of the Board of Councilors of the Municipality. An unauthorized construction ought not to be retained only because the same exists since long.

In the event, the Municipality intends to regularize or retain the unauthorized construction then definite reasons ought to be mentioned in support of the same.

Regularization can be made only in accordance with law and not according to the whims of the Municipality or on the request of the offender.

Accordingly, the instant writ petition is disposed of by directing the competent authority of the respondent No. 1, Baranagar Municipality to take necessary steps in the matter, strictly in accordance with the provisions of law and pass a reasoned order after giving an opportunity of hearing to both the parties, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

WPA 8723 of 2019 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)