

22.07.2021
Court No. 19
Item no.14
sn

WPA No. 11210 of 2021

ARCHANA DEB @ ARCHANA SARKAR
VS. THE STATE OF WEST BENGAL & ORS.

(via video conference)

Mr. Satadru Lahiri
Mr. Safdar Azam

...for the petitioner

Ms. Chama Mukherjee
Mr. Siraj Gupta

..for the K.M.C.

Mr. Partha Sarathi Bhattacharyya
Mr. Saiket Chatterjee
Mr. Debal Das

for the respondents.9-12

Despite service, none appears on behalf of the Baranagar Municipality. Let the affidavit of service be taken on record.

The allegation of the petitioner is that the respondent nos. 9-12 have been continuing with unauthorized constructions on the adjoining plot. It is contended that the said building is being raised in violation of the sanctioned plan and the building rules. It is also contended that several requests were made by the petitioners asking the said respondents to leave adequate side space as per the Building Rules. The respondent nos. 9 to 12 ignored such requests and continued with the constructions in violation of the Building Rules without leaving adequate side space.

Mr. Bhattacharya, learned Senior Advocate appearing on behalf of the respondent nos. 9-12 submits that the said respondents have a valid sanction plan. That the building has been constructed in accordance with the drawing/plan and also by complying with the requirements under the West Bengal Building Rules, 2007. Mr. Bhattacharya further submits that the Municipality had already made an inspection, but did not find any deviation from the sanctioned plan.

These are disputed questions of facts, which this Court cannot decide. It is the municipality, which is the competent authority to inquire into and prevent any unauthorized construction.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Baranagar Municipality to dispose of the representation/complaint of the petitioner dated June 21, 2021, which is annexed to this writ petition, upon hearing the petitioner and the representative of the respondent nos. 9-12.

The competent authority of the municipality shall cause an inspection in presence of both the parties and the inspection report shall be supplied to the parties. A reasoned decision shall be taken and communicated to all concerned. The municipality

shall also be at liberty to impose interim restriction, if necessary, under the law.

The entire proceeding should be reached to its logical conclusion in terms of the statute and the rules, on the basis of what transpires in the inspection report.

The entire exercise should be completed within a period of three months from the date of communication of this order.

This writ petition is thus disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)