

27.07.2021
Sl. No.25
S.B.

W.P.A. No. 11216 of 2021

Purnima Sarkar

Vs.

State of West Bengal & Ors.

Mr. Rwitendra Banerjee,
Mr. Sandip Kundu
Mr. Devdutta Pathak
Mr. Shibasis Chatterjee

...for the Petitioner.

Mr. Sudip Sarkar

...for the State.

Mr. Abhijit Borat,
Ms. Anami Sikdar,

...for the Respondent no. 2

Mr. Sukanta Das

For the Respondent Nos. 7 & 8

Affidavit-of-service is taken on record.

The writ petitioner has alleged unauthorised construction by the respondent Nos. 7 and 8. It is the case of the petitioner that at the instance of the respondent Nos. 7 and 8, an authorised construction has been going on at Plot No. 109(P) and 110(P), Mouza: Keranitola(@Kamarara) J.L. No. : 171 at Khaprail Bazar, Midnapore in Ward No. 7, Municipal holding No. 285 under Midnapur Municipality. The petitioner submits that a civil suit is pending between the parties and an injunction order has been passed restraining the respondent Nos. 7 and 8 from raising any construction. It is submitted that the said respondents are constructing the building in violation

of the sanction plan as also in violation of the order of injunction.

Mr. Das, learned advocate appearing on behalf of the respondent Nos. 7 and 8 submits that the construction has been done on the basis of the sanction plan and not in deviation thereof.

Mr. Sudip Sarkar, learned advocate appearing on behalf of the State-respondents/police authorities, submits that an enquiry has been made by the police authorities and it has been found that the construction was complete.

Mr. Sikdar, learned advocate appearing on behalf of the Midnapur Municipality, submits that *prima facie* there may be some deviation from the sanction plan, which the municipal authorities have to enquire into.

Mr. Das further submits that his clients have also filed a complaint before the Administrator of the Midnapur Municipality alleging unauthorised construction by the petitioner. He submits that the said complaint has not yet been disposed of. The said complaint of the respondent Nos. 7 and 8 was received by the municipality on December 18, 2020. The complaint is taken on record. Mr. Das further submits that another civil suit has been filed by his clients against the petitioner.

Having heard the rival contentions of the parties, this Court is also of the opinion that the allegations made by the petitioner and the counter allegations made by the respondent Nos. 7 and 8 with regard to unauthorised construction by each of the parties should be looked into by the competent authority of the municipality.

The writ petition is disposed of, with a direction upon the appropriate authority of the municipality to cause inspections of the premises of the petitioner as also the premises of the respondent No. 7 and 8 in presence of the respective parties. The minutes of the inspection shall be signed by the parties. Inspection reports shall be prepared and supplied to the parties. Thereafter, the complaint of the petitioner as also the complaint of the respondent nos. 7 and 8, shall be disposed of upon hearing the parties and a reasoned decision shall be passed and communicated. The municipal authority shall reach the proceedings thus, initiated to its logical conclusion, in accordance with law. This order shall not be construed as an observation or a decision on the right, title and interest of the petitioner or the respondent Nos. 7 and 8. It shall also not be construed as any decision or observation on any allegation of encroachment by and between the parties. The municipality shall decide the respective complaints in order to ascertain whether there are deviations from the

sanction plan or not and thereafter take appropriate steps under the law. The suits will proceed in accordance with law.

The entire exercise shall be completed within a period of 12 weeks from the date of communication of this order.

Under such circumstances, the writ petition is disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)