

24.11.2021
Court No. 19
Item no.17
sn

WPA No.13818 of 2021

BIPLAB DAS
VS.
TAMRALIPTA MUNICIPALITY & ORS.
(via video conference)

Mr. Pingal Bhattacharya ...for the Petitioner

Ms. Sipra Mazumder
Mr. T.K. Roy ..for the State

Mr. Gopal Chandra Das ..for the Municipality

Mr. Pratik Dhar..Sr.Adv.
Ms. Deblina Lahiri
Mr. Mrinmay Chatterjee ..for the respdts.4&5

The petitioner alleges inaction on the part of the Tamralipta municipality. The grievance of the petitioner is that although several complaints have been lodged by the petitioner before the Tamralipta municipality, no steps have been taken for disposal of the complaint. The complaint is with regard to illegal sanction of the building plan in respect of the building constructed by the respondent nos. 4&5. A copy of the complaint is at page 60, being Annexure P/3 to the writ petition. Subsequently, a demand notice was also made by the learned advocate for the petitioner, which is also annexed to the writ petition.

Mr. Bhacharyya submits that the plan has been sanctioned without following the building rules and the provisions regarding floor area ratio and boundary coverage have not been followed. It is

further submitted by him that the said building is higher than the permissible limit.

Mr. Dhar, learned senior advocate appearing for the respondent nos. 4&5 submits that the building was completed in accordance with the sanction plan many years ago and the building is completely occupied. That the municipality upon following Rule 34 of the West Bengal Building Rules, 2007, granted a completion certificate being satisfied upon inspection that the building has been completed strictly in accordance with the plan and as per rules. Thereafter occupancy certificates have been issued.

Mr. Das, learned advocate for the municipality submits that the writ petition based on frivolous allegations and is motivated by extraneous considerations. That the sanction was granted in accordance with law upon following the rules. That the building was completed long ago as per the sanction plan. Occupancy certificates have also been given to the owners of the flats.

Having considered the rival contentions of the parties, this Court is of the opinion that the petitioner's representation/complaint with regard to the sanction of the plan must be disposed of in accordance with law by the competent authority of the municipality. Such disposal shall be done upon

hearing the petitioner as also the respondent nos. 4&5. This order shall not be construed as any observation on merits as it is the municipality which can decide the issues raised, being empowered under Section 217 of the West Bengal Municipality Act, 1990.

The proceeding to be initiated on the basis of this order shall be restricted only to the provisions of Section 217 of the West Bengal Municipal Act, 1990.

A reasoned order shall be passed and communicated to all the parties.

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

The writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)