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2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

WPA No.18942 of 2019

**Minati Maity
Versus
The State of West Bengal and others**

Mr. K.C. Das,
Mr. Sk. Sahjahan Ali.
...for the petitioner.

Mr. Anirban Bose.
...for the State.

Mr. S.M. Hassan,
Mr. Sanjay Patra.
...for the respondent nos.6 and 7.

Supplementary affidavit and affidavit of
service filed in Court today be kept on record.

The petitioner is aggrieved by alleged inaction
of the police authorities in the matter of construction
of a building by the petitioner on a particular plot of
land. Learned counsel for the petitioner places
reliance on an order dated August 2, 2017 passed by
a co-ordinate Bench in WP 11469 (W) of 2017 wherein
learned counsel then appearing for the present
private respondents submitted that they had no
objection to lawful construction, if any, undertaken
by the writ petitioner. Accordingly, the Officer-in-

Charge of Ramnagar Police Station was directed to ensure that there was no breach of public peace and tranquillity in and around the locality affecting the lawful right of the petitioner to undertake any lawful construction on the property in accordance with law.

Learned counsel, pursuant to leave granted by this Court, files a supplementary affidavit today with which is annexed a copy of the title deed of the petitioner as well as the sanction plan granted by the local gram panchayat with regard to such construction.

Learned counsel appearing for the private respondents argues that the private respondents are co-sharers in respect of the plot-in-question and, in the absence of any demarcation, the petitioner does not have a lawful right to construction over such property.

Learned counsel appearing for the State-respondents refutes the contentions of inaction on the part of the police in view of the fact that the question of legality of such construction was not clear to the police authorities.

It appears from the copies of the title deed and sanction plan annexed to the supplementary affidavit today, that, prima facie, the petitioner has title to the property and the construction being made

by the petitioner is lawful. As such, in pursuance of the direction dated August 2, 2017 passed in W.P.11469(W) of 2017, there cannot be any impediment for the police authorities to grant adequate assistance to the petitioner, of course, at the cost of the petitioner, to complete the construction on the premises-in-question.

Since the private respondents have not yet approached any civil court, despite a similar question having been raised as long as back on August 2, 2017, there is no scope for raising any objection on the part of the private respondents regarding such construction, as the same is, on the face of it, lawful.

Accordingly, WPA 18942 of 2019 is disposed of by directing the respondent no.4 to grant police assistance to the petitioner, at the cost of the petitioner, for the purpose of raising the construction-in-question, pertaining to the description of the property as mentioned in the schedule to the sale deed annexed to the supplementary affidavit.

However, it is made clear that the merits of the rival contentions of the private respondents regarding title of such property have not been gone into by this Court and it will be open to the private respondents as well as the petitioner, if so deemed fit,

to approach the competent civil court for resolution of such dispute.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)