

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Through Video Conference)
WPA 8138 of 2020

Sk. Sowkat Ali
Vs.
State of West Bengal & Ors.

Mr. Hareram Singh
Mr. Indrajit Bhattacharjee
... For the petitioner

Mr. Amitesh Banerjee
Mr. Tarak Karan
... For the State

Mr. Saunak Bhattacharya
Mr. Chandranath Sarkar
... For the respondent no.4

The petitioner alleges that despite of having a sanction building plan, the petitioner is unable to make construction mainly because of objections raised by the local police authorities, being Rajabagan Police Station.

On behalf of the respondents no.1, 2 and 3, it is submitted that the police authorities have never stopped the petitioner from making any construction and there is also no complaint received by the police authorities regarding the stoppage of construction in respect of the subject premises. The writ petition, therefor, according to the said respondents, be disposed of recording such statement. The petitioner is agreeable to the same.

On behalf of the respondent no.4 (private respondent), it is submitted that the building plan on the

basis whereof the petitioner is seeking to make construction was obtained in the name of dead persons and the plan is invalid, according to the said respondent no.4. The respondent no.4 further says that the said respondent has already filed a writ petition, being WPA 10065 of 2020, for cancellation of the building plan sanctioned in favour of the petitioner. In the said writ petition, a report in the form of an affidavit has been directed to be filed by Kolkata Municipal Corporation which is still awaited. The respondent no.4 says that no observation should be made in the order which may effect the right of the said respondent in his writ petition if this Court is minded in disposing of the writ petition by recording the submission made on behalf of the respondents no.1, 2 and 3.

Responding to the submission made by the respondent no.4, it is submitted by the petitioner that the said respondent has not been able to get any favourable order in a civil suit filed by the said respondent. After having failed to do so, the said respondent has come up with the writ petition and is taking all steps to prevent the petitioner from making the construction.

So far as the right *inter se* between the petitioner and the private respondent concerning the premises in question, this Court is not inclined to make any order or observation in the present writ petition which is restricted only to the allegations against the police authorities. The

right as to the premises-in-question wherein the petitioner proposes to make a construction can only be decided by a competent civil court while trying a properly constituted suit between the petitioner and the private respondent. With regard to the validity of the sanction plan, the writ petition filed by the respondent no.4 will finally adjudicate such issue.

This writ petition being limited only to the allegations as against the police authorities is, therefor, disposed of by recording the submission made on behalf of the respondents no.1, 2 and 3.

Nothing further remains to be adjudicated in this writ petition.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)