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19.02.2021.
d.p.

**W.P.A 10313 of 2020
(Via Video Conference)**

**Prem Kumar Naskar & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Tanmay Basu,
Mr. Arun Shaw.
...For the Petitioners.**

**Mr. Debabrata Saha Roy,
Mr. Arka Nag,
Mr. Subhankar Das.
...For the Bidhannagar
Municipal Corporation.**

**Mr. Ashim Kumar Routh.
...For the Private Respondents.**

The petitioners allege illegal and unauthorized construction being made by the respondent Nos. 9 and 10 in making construction without a valid sanction plan in Dag Nos. 203 and 204, Khatian No.-174, Mouza-Mondalganhi, J.L. No. 6, P.S.-Baguiati, Ward No.-7, District-North 24-Parganas under the Bidhannagar Municipal Corporation.

The petitioners made an application under the Right to Information Act, 2005 seeking certain information from the Chief Engineer of the Bidhannagar Municipal Corporation on 26th December, 2019. The query of the petitioners was whether any building plan has been submitted and sanctioned in respect of the aforesaid property.

According to the petitioners, no information was supplied by the Bidhannagar Municipal Corporation.

The petitioners thereafter met the Executive Engineer, Building Plan Department of the Bidhannagar Municipal Corporation in December, 2019 and apprised the said authority about the illegal construction being made by the private respondents.

The petitioners also approached the Court of the Learned Executive Magistrate, Barasat (Sadar), North 24-Parganas by filing an application under Section 144(2) of the Code of Criminal Procedure.

Lastly, the petitioners filed the representation before the Bidhannagar Municipal Corporation by a letter dated 5th December, 2020 objecting to the aforesaid unauthorized construction being carried on by the private respondents. The said representation was sent to the Bidhannagar Municipal Corporation through speed post.

The petitioners have filed the instant writ petition before this Court on 7th December, 2020.

The learned advocate appearing for the Bidhannagar Municipal Corporation has raised a preliminary objection with regard to the maintainability of the writ petition as the same has been filed within a period of two days from the date of sending the representation before the Bidhannagar Municipal Corporation.

The learned advocate appearing for the respondent Nos. 9 and 10 submits that as many as three Suits are pending in between the parties. The petitioners have suppressed all the facts relating to the filing of the Suit before the learned court below and also pendency of the second appeal before this Court.

It has been submitted that the private respondents are making construction in accordance with the plan that has been sanctioned in their favour by the Bidhannagar Municipal Corporation.

From the submissions made on behalf of both the parties, it appears that though the petitioners were aggrieved with the action of the private respondents in making construction over the aforesaid plot of land, no formal representation was made by the petitioners objecting to the aforesaid construction before Bidhannagar Municipal Corporation prior to 5th December, 2020. Immediately upon sending a letter through speed post on 5th December, 2020, the petitioners affirmed the writ petition on 7th December, 2020 alleging in action on the part of the Bidhannagar Municipal Corporation.

The petitioners ought to have waited for a reasonable time permitting the Bidhannagar Municipal Corporation to take an action in response to the complaint lodged by them. The petitioners without waiting for the requisite period filed the writ petition within two days, without annexing a copy of the track report to show that the representation filed by the petitioners was received by the Bidhannagar Municipal Corporation.

As it has been submitted by the private respondents that they are making construction in accordance with the plan sanctioned by the Bidhannagar Municipal Corporation, accordingly, the instant writ petition is disposed of by directing the Bidhannagar Municipal Corporation to consider the representation made by the petitioners, strictly in

accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners immediately thereafter.

The Bidhannagar Municipal Corporation shall ensure that the construction over the aforesaid premises is being made strictly in accordance with the plan sanctioned by the Bidhannagar Municipal Corporation.

W.P.A. 10313 of 2020 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)