

S/L 27
17.03.2022
Court. No. 19
GB

W.P.A. 327 of 2022

Tufan Dutta
VS
Ghatal Municipality & Ors.

Mr. Indrajit Bhattacharjee.

...for the Petitioner.

*Mr. M. Thakur,
Mr. Swarup Ghosh.*

...for the Municipality.

Mr. Atanu Biswas.

...for the Respondent Nos.5 to 7.

Affidavit-of-service filed in Court today be kept with the record.

The allegation is that the respondent nos.5 to 7 have been constructing on Dag No.365, Mouza-Gombhirnagar within the jurisdiction of the Ghatal municipality without having the eligibility to raise such construction under the Pradhan Mantri Awas Yojana Scheme (hereinafter referred to as the 'said Scheme').

Initially a complaint was lodged alleging that the construction was being carried on without permission from the municipality. The municipality pursuant to a query made by the petitioner under the Right To Information Act, 2005, informed the petitioner that the construction was being raised under the said Scheme. The predecessor-in-interest of the said respondents was the original beneficiary.

It is submitted that the said construction allegedly being raised under the said scheme, ceases to be a construction, authorised under the said Scheme, as the original beneficiary passed away and the respondent nos.5 to

7 do not fall within the definition of 'beneficiary' under the said Scheme. A copy of the said Scheme has been handed over to the Court, from which it appears that the definition 'beneficiary' includes husband, wife, unmarried sons and/or daughters. According to the petitioner, the respondent nos.5 to 7 are married and as such, the construction could not be continued by them under the said Scheme.

Mr. Biswas, learned advocate appearing on behalf of the respondent nos.5 to 7 submits that the construction upto the roof, was completed prior to the death of the original beneficiary.

Neither the writ Court sitting in this jurisdiction nor the municipal authorities is empowered to decide the question of the right of the beneficiaries under the said Scheme. The municipality is not the authority to decide the eligibility of the beneficiaries. The municipality only supervises whether the construction is made in terms of the model plan attached to the said Scheme.

Under such circumstances, the writ petition is disposed of without any orders. The petitioner is always at liberty to approach the appropriate authority with his objection in accordance with law.

Accordingly, the writ petition is disposed of, without any order.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)