

S/L 19
10.3.2022
Court. No. 19
sn

W.P.A. 1990 of 2022

Sk. Jahir Abbas & Ors.
VS
The State of West Bengal & Ors.

Mr. Dipankar Pal ... for the Petitioners

Mr. Biswajit Mukherjee
Ms. Chandana Roy
..for the respdt.no.6

Mr. Narayan Chandra Bhattacharyya
Ms. Sujata Ghosh
..for the State

Mr. Gobinda Chandra Banerjee
..for the municipality

The police report and surveyor report are kept on record.

The petitioners allege that the respondent no.6 has constructed illegally without a sanction from the Uluberia municipality, on L.R. plot no.228, Mouza Khas Khamar, Police Station Bauria, District Howrah. The petitioners further allege inaction on the part of the municipality in disposing of the complaint of the petitioners, which is Annexure P/4 at page 30 of the writ petition. It appears that the said complaint was received by the municipality on December 28, 2020.

The respondent nos. 6 submits that by way of a hebanama, the respondent no.6 became the owner of the said property. That the respondent no.6 being a poor man was enlisted as a beneficiary under the Indira Awas Yojna. The respondent no. 6 has

constructed upto the plinth level. The permission from the municipality shall be obtained as per the scheme shortly. For construction upto the plinth level, no permission was necessary.

Mr. Banerjee, learned advocate for the municipality has submitted a surveyor's report dated March 3, 2022, from which it appears that the respondent no. 6 has constructed a new structure upto the plinth level upon demolishing the old one. The respondent no.6 has been asked to stop construction for the time being so that the municipality would be in a position to ascertain the details of the proposed construction and grant permission as per the scheme.

The contention of the respondent no.6 that the said construction has been made under the Indira Awas Yojna is also supported by the municipality. It is submitted that the municipality will cause an inspection and enquire into the issues after the respondent no.,6 applies for permission as per the scheme and only then, the respondent no.6 would be entitled to construct under the Indira Awas Yojna, above the plinth level.

In view of the submissions of the learned advocate for the municipality, nothing remains to be decided in this writ petition. The writ petition is disposed of with a direction upon the Ulubera

municipality to act and proceed in accordance with law with regard to the construction to be raised by the respondent no.6 in future, by taking into consideration the parameters for such construction, under the Indira Awas Yojna.

While considering the papers and documents to be filed by the respondent no. 6 and during the enquiry, the petitioners shall also be heard, by the municipality. As the stop work notice had already been issued and the enquiry and investigation have not been completed by the municipality, no further interim order is necessary.

This writ petition is thus disposed of.

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

All parties are directed to act server copy of this order or learned advocate's communication.

(Shampa Sarkar, J.)