

08.02.2022
Item No.20
srm

W.P.A. No. 6407 of 2020
With
CAN 1 of 2020 (Old No. CAN 5011 of 2020)
Mrinal Kanti Panda
Vs.
The State of West Bengal & Ors.

Mr. Ratul Biswas,
Mr. Sagnik Roy Chowdhury
...for the Petitioner.

Mr. Debjit Mukherjee,
Mrs. Rupsha Chakraborty
...for the State-Respondents.

Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari
...for the Contai Municipality.

Mr. Chinmoy Pal,
Mr. Sourav Mondal,
Mr. Archan Dutta
...for the Respondent No.7.

It is submitted by the learned Advocate of the Contai Municipality that the original report has been misplaced. A copy of the report is handed over to the Court. With the consent of the parties, the same is treated as the original and taken on record. Affidavit-in-reply on behalf of the petitioner to the report filed by the municipality is also taken on record.

The allegations in the writ petitioner were primarily against the Contai Municipality. It was alleged that by allowing an unauthorised construction by the respondent No.7 the municipality had acted contrary to law. The

municipality had been directed by a learned co-ordinate Bench of this Court to file a report. According to the said report, the municipality made an inspection of the partition deed and of the lands of the parties and had, *prima facie*, come to a conclusion that the land over which the construction of the respondent No.7 had been erected was not the subject matter of the injunction order. It was also stated that the construction had been made under the "Housing for all" scheme within 4½ decimals of land on Plot No.280 of Mouza-Karkuli, J.L. No.264, District-Purba Medinipur. It has been further stated that the construction had been made as per the model plan of the government. The area of the construction was 258 sq.ft. According to the municipality, the construction under the "Housing for all" scheme was not made as per the Municipal Rules but as per the plans/drawing approved by the competent authority under the housing for all scheme. Under such circumstances, the Court does not find that the municipality has a further role to play in the matter.

The contention of the Mr. Biswas, learned Advocate appearing on behalf of the petitioner, that the municipality did not have any authority to decide the title, is accepted. Thus, the allegations with regard to the violation of the injunction order and the claim of the petitioner with regard to the right,

title and interest over the property in question, are matters to be decided by a civil court.

The other allegation of Mr. Biswas that the construction could not have been made under the "Housing for all" scheme, as the same is a commercial building, is not for the municipality to decide.

The petitioner is granted liberty to approach the Sub-Divisional Officer, Contai, with such allegations.

This Court does not express any opinion with regard to the merits of such contentions and the concerned Sub-Divisional Officer shall decide the issue after giving an opportunity of hearing to the petitioner, the respondent No.7 and any other interested party. A reasoned order shall be passed and communicated to all concerned.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

This writ petition is, thus, disposed of.

In view of disposal of the writ petition, the connected application has become infructuous and the same is disposed of accordingly.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)