

Sl. No.SL-1
12.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11648 of 2021

Vikash Bajoria & Ors.
Versus
State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. Dipankar Mandal
Mr. Abdul Aziz Mondal
... for the petitioners
Mr. Amarta Ghose
Mrs. Rituparna De Ghose
Mr. Siddhartha Paul
... for the private respondent no.7
Mr. Srijan Nayak
Ms. Rituparna Moitra
... for State
Ms. Mousumi Bhowal
... for the Municipality

The petitioners complain that the respondent nos.7, 8 & 9 were illegally and arbitrarily changing the use of the residential premises and using the same for commercial purpose without obtaining permission from the South Dum Dum Municipality.

A Title Suit has been filed by the petitioner before the Civil Judge, Junior Division, Bidhannagar being Title Suit No.172 of 2021 and an order of status quo with regard to nature, character and possession of the suit premises has been directed to be maintained by the Court below by order dated 28th June, 2021.

The petitioners complain that despite the order passed by the learned Civil Court, the private respondents are merrily going on with the construction work and using the same construction for commercial use.

An objection was filed by the flat owners' association of the property in question before the South Dum Dum Municipality in June, 2021. The same is yet to be considered.

Learned advocate representing the private respondents submits that they are acting in strict compliance of the order passed by the learned Civil Court. It has been submitted that the private parties are acting in accordance with the provision of law.

As it appears that the representation filed by the flat owners' association of the premises in question is pending consideration at the end of the South Dum Dum Municipality, accordingly, the present writ petition is disposed of by directing the respondent nos.5 & 6 to take a decision with regard to the representation filed by the petitioners on 30th June, 2021 strictly in accordance with law, upon giving reasonable opportunity of hearing to the representative of the petitioners and the representative of the respondent nos.7, 8 & 9.

Decision shall be taken in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

A reasoned order shall be passed by the aforesaid respondents and communicated to the parties immediately thereafter.

The Municipality shall take all consequential necessary steps in the matter to remove illegal construction, if any, at the instance of the respondent nos.7, 8 & 9.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)