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23.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 12364 of 2021

**Pranab Kumar Basu
-versus
The State of West Bengal & Ors.**

**Mr. Mrinal Kanti Ghosh.
...For the Petitioner.**

**Mr. Himadri Sikhar Chakraborty,
Mr. Rajaram Banerjee.
...For the State.**

**Mr. Somnath Roy,
Ms. Susmita Mazumder.
...For the Municipality.**

**Mr. Debjit Mukherjee,
Ms. Dipanwita Ganguly.
...For the Respondent
Nos. 5 and 6.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner is aggrieved by the act on the part of the private respondents in making construction over a portion of the land recorded in favour of the Government (Relief Department).

From the record of rights that has been annexed to the writ petition, it appears that a portion of the land in question is recorded in favour of the Relief Department, but the same is in possession of one Jogesh Chandra Chakraborty who happens to be the father of the respondent Nos. 5 and 6.

The father of the petitioner issued a 'No Objection Certificate' in favour of the respondent Nos. 5 and 6 for making construction over the said plot of land.

The Bhadreswar Municipality initially sanctioned the plan in favour of the private respondents which was later on cancelled in May 2018. Thereafter, in December 2018, a revised plan has been sanctioned in favour of the respondent Nos. 5 and 6.

The petitioner's contention is that the private respondents cannot make construction over the Government land and the plan to make construction was obtained upon misrepresentation of facts.

Learned advocate of the private respondents submits that they made construction on the land in question after obtaining a proper plan sanctioned by the Bhadreswar Municipality and it has been submitted in Court that the construction was complete by the end of 2020.

The newly constructed portions have been transferred in favour of the respective purchaser.

It appears from the submissions made on behalf of the parties that a Civil Suit is pending in respect of the selfsame property in between the parties in the learned Court below. Bhadreswar Municipality is also a party in the said suit.

Though initially an order of injunction was granted by the learned Court below but later on the said order of injunction has been vacated.

The Municipality reiterated the fact that the father of the petitioner did issue a 'No Objection Certificate' for sanctioning the plan in favour of the private respondents.

The Court is of the opinion that the private respondents have made construction in accordance with the plan sanctioned and the Municipality has relied upon the 'No Objection Certificate' issued by the father of the petitioner on 7th April, 2015 for sanctioning the plan in favour of the private respondents.

The title in respect of the said property is pending adjudication before the learned court below.

The parties shall be bound by the order passed by the learned Court below in the pending Civil Suit.

It does not appear that there was any misrepresentation on the part of the private respondents at the time of sanction of the plan, accordingly, the prayer of the petitioner for cancellation of the same on the ground of misrepresentation cannot be accepted by the Court.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)