

Item No.12

22.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11181 of 2022
Smt. Tagarbala Mondal
-vs.-
The Kolkata Municipal Corporation & Ors.

Mr. Nitai Chandra Saha
Mr. Abhijit Chandra Majumder
... for the petitioner.

Ms. Sonal Sinha
Ms. Sangeeta Roy
... for the State.

Mr. Alok Kumar Ghosh
Mr. Swapan Kumar Debnath
... for KMC.

Mr. Shouveek Ray
Mr. M.M.Chandra
... for the respondent no. 6.

The petitioner claims to be the co-sharer of certain plots of land in Mouza-Nonadanga, Police Station-formerly Tollygunge, presently Anandapur.

She alleges that the respondent no. 5, Fortis Hospital, respondent no. 6, the Calcutta International School, respondent no. 7, Made Easy, Kolkata and respondent no. 8, Gyananidhi Trust, Eastern Metropolitan Bypass have made constructions over the said plots of land without obtaining any plan sanctioned from the Kolkata Municipal Corporation.

It appears from the averments made in the writ petition that a suit being TS No.4946 of 2015 is pending consideration before the Civil Court. An earlier writ petition being WP No. 991 of 2006 (Aristray Properties Pvt. Ltd. v. State of West Bengal & Ors.) was filed allegedly challenging the acquisition of the land in question.

The issue of acquisition is still pending before this Court in a separate writ petition filed by the present writ petitioner being WPA 11177 of 2022.

Yet another writ petition being WP No. 10568(W) of 2020 was filed seeking certain information under the Right to Information Act in respect of the said property.

Mere wild allegation has been made that the construction has been raised without a valid sanctioned plan. There is no documentary evidence in support of such allegation. The Court, relying upon such wild allegation, ought not to pass order directing the respondents to enquire and decide as to whether or not the constructions made are in accordance with the plan sanctioned.

In view of the above, no relief can be granted to the petitioner in the present writ petition.

The writ petition fails and is hereby dismissed.

In the event, the petitioner is successful in obtaining information from the competent authority that construction has been made without any sanctioned plan or in deviation of the plan sanctioned, then it will be open for the petitioner to approach the appropriate forum for relief, if so advised.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)