

Sl. No.ML-124
12.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12823 of 2021

Gour Mondal
Versus
The State of West Bengal & Ors.

Mr. Sarbananda Sanyal
Mr. Anirban Das

... for the petitioner

Mr. Sirsanya Bandopadhyay
Mr. A. K. Nag
Mr. Tirthankar Dey

... for Bidhannagar Municipal Corporation

Mr. Ashim Kumar Routh
Mr. Ananya Mondal

... for the private respondent nos.13, 14 & 15

The petitioner complains of illegal and unauthorised construction at the instance of the respondent nos.8 to 15.

Affidavit of service filed in Court is taken on records.

The petitioner complains that construction was being made without obtaining any sanctioned plan from the Bidhannagar Municipal Corporation.

The petitioner relies upon an information provided by the Bidhannagar Municipal Corporation on 5th November, 2019 mentioning that a building plan was approved by the erstwhile Rajarhat Gopalpur Municipality on 6th June, 2013 for construction of two

storied building in the name of Narayan Chandra Saha. The construction was sought to be made not by the aforesaid Narayan Chandra Saha but by the respondent nos.8 to 15, that too, after the plan in question lost its validity. It has further been submitted that instead of two storied building, a seven storied building has been constructed.

The petitioner complains that repeated representation filed before the Bidhannagar Municipal Corporation has remained unheeded.

Reliance has been placed upon the stop work notice dated 6th October, 2020 issued by the Bidhannagar Municipal Corporation directing the private respondents to stop construction on the said plot of land.

It has been contended that despite the stop work notice, the private respondents merrily went on with construction and have nearly completed the same.

Learned advocate representing the private respondents submits, upon instruction that, construction has been made strictly in accordance with plan that has been sanctioned by the Bidhannagar Municipal Corporation.

It has been contended that after stop work notice was issued the private respondents stopped the construction work. After regularization has been made, construction was completed. Completion certificate has

also been issued in favour of the private respondents by the Bidhannagar Municipal Corporation.

Learned advocate for the Bidhannagar Municipal Corporation is not ready with proper instruction in the matter.

From the submissions made on behalf of the parties it appears that the representation of the petitioner is pending consideration.

The writ petition is accordingly disposed of by directing the respondent no.4 to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of 12 weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or

decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 6th November, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

Leave granted to the learned advocate for the private respondents to file Vakalatnama in course of the day and provide the filing number to the officer attached to this Court.

Learned advocate representing the respondent nos.13, 14 & 15 has filed his Vakalatnama in the department being filing No.A-19644 dated 12.09.2022.

The department is directed to tag the Vakalatnama with the records of the present case.

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.)