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08.12.2022
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In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 14004 of 2019

Chatra Chowdhury Para (Line Dhar) Bandhu Mahal Club & Ors.
-versus
The State of West Bengal & Ors.

Mr. Avinaba Patra,
Mr. Dipayan Kundu,
Ms. Souraja De.
...For the Petitioners.

Mr. Goutam Lahiri.
...For the Municipality.

Mr. Prasanta Kumar Banerjee,
Ms. Indrani Nandi.
...For the Respondent No.6.

Ms. Anwari Quraishi,
Ms. Zainab Tahur.
...For the State.

The petitioners are aggrieved by the construction allegedly made over the municipal land. According to the petitioners, the construction has been made by blocking the sewerage system.

A report has been filed by the Chairman of Serampore Municipality mentioning that the Municipality is the absolute owner and occupier of the land in question. The same is being used as a children park. The Municipality selected the respondent nos. 6 and 7 as care taker for maintaining the park.

The respondent no. 6 applied for obtaining permission for construction of a room with toilet facility measuring about 300 sq.ft. in the park for the use of the students attending the coaching camp in the said park. The said proposal was accepted and approved by the Board of Councillors of the Municipality.

As regards the allegation of blocking the public drain, the affidavit of the Municipality mentions that the Kolkata Metropolitan Development Authority at the time of developing the drainage system in the locality nearly 30 to 40 years back converted the open drainage system to underground drainage system. Presently, there is no open public drain in the locality.

From the affidavit filed in Court by the Municipality and upon hearing the submissions made on behalf of the parties, it appears that the allegation made for making unauthorized construction over the municipal land remains unsubstantiated as the Municipality being the owner of the said land has permitted the private respondents to make construction thereon. Accordingly, the construction made upon obtaining sanction cannot be said to be an unauthorized one.

As regards the blockage of the public drain, it has been submitted that there is no open public drain and the drainage system runs underground. The submission of the petitioners alleging blocking of public drain also remains unsubstantiated.

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

The writ petition fails and is hereby dismissed.

Report filed by the Chairman of the Municipality and the exception thereto filed by the petitioners are taken on record.

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

(Amrita Sinha, J.)