

D/L 18
05.7.2022
Court No.24
SD

WPA 15630 of 2019

Narayan Chandra Paria & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha

...for the Petitioners.

Mr. Sudeep Sanyal
Mr. Sukanta Das
Ms. Lopa Mudra Moitra

...for the Respondent Nos.9-11.

Affidavit of service filed by the petitioners in Court today be kept with the records.

None appears on behalf of the Kharagpur Municipality and Midnapore Kharagpur Development Authority in Court today, despite service.

The petitioners allege illegal unauthorized construction by the respondent nos.9-11 over R.S. Plot No.347 and 348, J.L. No.188 Sonamukhi Mouza within the periphery of the Hijli Cooperative Development Society, Kharagpur-721306.

The petitioners objected to the aforesaid unauthorized construction before the Chairman, Kharagpur Municipality by a representation made by the learned advocate on their behalf. The petitioners allege that the said representation has not been taken up for consideration till date.

Learned advocate representing the private respondents opposes the submission made on behalf of the

petitioners. It has been submitted that the construction has been made strictly in accordance with the plan that has been sanctioned by the Municipality.

An issue has been raised with regard to the maintainability of the writ petition at the instance of the petitioners. It has been submitted that the petitioners do not have the locus standi to move the present writ petition.

Since the matter relates to the allegation of unauthorized construction, the Court is of the opinion that the petitioners do have the locus to raise objection against such unauthorized construction.

A three-judge Bench of the Hon'ble Supreme Court in the matter of ***Dipak Kumar Mukherjee vs Kolkata Municipal Corporation reported in AIR 2013 SC 927*** upheld the appeal filed by an enlightened resident of Kolkata alleging illegal and unauthorized construction and passed necessary orders therein. Accordingly, the objection raised by the private respondents challenging the locus of the petitioners in invoking the high prerogative writ jurisdiction of this Court stands overruled. It is held that the petitioners do have the locus standi to file the present writ petition.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent nos.3 and 4 being the Kharagpur Municipality and its Chairman to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months 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 petitioners immediately thereafter.

In the event the aforesaid respondents are 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 unauthorized construction, in accordance with law.

The aforesaid respondents 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 petitioners and all points are left open to be decided by the aforesaid respondents at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated July 16, 2019 to the aforesaid respondents at the time of communicating the order of the Court.

The writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)