

**Sl. No.17**  
**20.09.2022**

Court No.24  
B.M.

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

**W.P.A 17650 of 2021**

**Purnendu Bhattacharyya & Anr.**  
**Versus**  
**The State of West Bengal & Ors.**

Mr. Sanat Kumar Roy  
Mr. Abhishek Banerjee

... for the Petitioners

Mr. Sudipta Dasgupta  
Mr. Anath Nath Naskar  
Mr. Arka Nandi  
Mr. Sutirtha Nayek

... for the respondent nos.6 to 10

Mr. Jyotsha Roy Mukherjee

... for the State

The petitioner complains that the private respondents made construction in deviation of the plan that has been sanctioned by the Baidyabati Municipality.

A representation has been filed by the petitioner before the Municipality in June, 2021 followed by a reminder in July, 2021. It is alleged that the representation is yet to be considered.

Learned advocate representing the private respondents submits, upon instruction that, the construction was made in accordance with the plan sanctioned by the Municipality. Flats have been constructed and sold to the purchasers.

Private respondents have challenged the locus of the petitioner in filing the present writ petition. It has been submitted that the petitioner is no way connected with the property in question and he does not have locus to file the writ.

It appears from the representation dated 14<sup>th</sup> July, 2021 that the petitioner has made allegation against the private respondents for making construction by encroaching the land of the mandir which is contiguous to the land where the construction has been made.

The submission of the private respondent that the petitioner does not have the locus to file writ petition alleging unauthorized construction cannot be accepted by the Court.

As regards allegation with regard to unauthorised construction, it has been held by the Hon'ble Supreme Court that, even a stranger to a property has right to draw attention of the sanctioning authority with regard to any illegality committed at the time of making construction.

The writ petition is accordingly disposed of by directing the Executive Officer of the Baidyabati Municipality, being the respondent no.5 herein, 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 petitioner within a period of twelve 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 14<sup>th</sup> July, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

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.)**