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22.08.2022
d.p.

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

W.P.A 18404 of 2021

**Sk. Matibul Rahaman & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Robiul Islam,
Mr. Sk. Jayeed Hossain,
Mr. Raju Maondal.
...For the Petitioners.**

**Mr. Rabindranath Mahata,
Mr. Aritra Shankar Roy.
...For the Respondent Nos.
9 to 11.**

**Mr. Prasanta Kumar Giri,
Mr. Biswajit Dutta.
...For the State.**

**Mr. Manotosh Chakraborty,
Mr. Dinesh Ch. Nandi.
...For the Respondent
Nos. 3 and 5.**

The petitioners allege illegal and unauthorized construction at the instance of the respondent Nos. 9, 10 and 11 in respect of the Plot No. 198 under the jurisdiction of Maligram Gram Panchayat within the Pingla Panchayat Samity.

The petitioners submit that the construction has been made of B+G+5 storied building even though sanction was given by the Paschim Medinipur Zilla Parishad for construction of B+G+4 storied building.

It is the submission of the petitioners that additional floors have been constructed by the respondent Nos. 9 to 11 in deviation of the plan sanctioned. Apart from the vertical extension, there are side deviations.

The petitioners have filed representation before the Sabhadipati and the Additional Executive Officer, Paschim Medinipur Zilla Parishad in October 2021 and alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the respondent Nos. 9 to 11 submits that the construction has been made in accordance with the plan sanctioned.

A report has been filed by the Additional District Magistrate and Additional Executive Officer, Paschim Medinipur Zilla Parishad dated 16th September, 2019 which mentions about the B+G+4 storied structure for which plan has been sanctioned.

Today the learned advocate appearing for the Paschim Medinipur Zilla Parishad has filed a report signed by one Abir Baran Basu Roy, the District Engineer, Paschim Medinipur Zilla Parishad which mentions that 'no objection certificate' has been issued by the Joint Secretary, Panchayat and Rural Development Department for construction of B+G+5 additional floors.

The report of the District Engineer does not mention about the side deviation made by the private respondents.

The writ petition is accordingly disposed of by directing the respondent no. 3, the Executive Engineer (Building), Paschim Medinipur Zilla Parishad 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, at the earliest, but positively within a period of three months from the date 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 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 unauthorized construction, in accordance with law.

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 respondent at the time of consideration of the representation of the petitioners.

The aforesaid respondent will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without/in deviation of the sanctioned plan.

The petitioners are directed to forward a copy of the representation dated 7th October, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)