

28.02.2022
Sl. No.8
srm

W.P.A. No. 20160 of 2021

Sujit Chatterjee & Ors.

Vs.

The State of West Bengal & Ors.

Mrs. Pompa Dey (Dhabal)

...for the Petitioners.

Mr. Aniruddha Chatterjee,

Mr. Abir lal Chakraborti

...for the Respondent No.8.

Ms. Sanghamitra Nandi,

Mr. Parikshit Goshwami

...for the State-respondents.

Mr. Ranajit Chatterjee,

Mr. Arijit Dey

...for the Baranagar Municipality.

The petitioners are the owners of a plot situated at 93/3, MNK Road (N), Kolkata-700035 under Ward No.6 of Baranagar Municipality. The petitioners allege that the respondent No.8 and its partners have been constructing illegally on the said plot. It is further alleged that despite several complaints before the Baranagar Municipality, the municipality sat tight over the matter and in spite of holding a hearing, failed to pass a final decision. A prayer is made that the municipality be directed to conclude the proceedings on the basis of the complaints of the petitioners.

Mr. Aniruddha Chatterjee, learned Advocate appearing on behalf of the respondent No.8, submits that the construction has been made in accordance with the sanction plan. According to him, the writ petition is motivated and filed for extraneous considerations. Mr. Chatterjee submits that some private disputes have cropped up between the owners and the developers and the writ petition is a fall out of the lack of settlement between the parties. A civil suit has also been filed and the petitioners have been enjoined from disturbing the construction. Mr. Chatterjee, further submits that the stop work notice was vague. Neither the nature of unauthorised constructions nor the extent of unauthorised construction have been mentioned in the stop work notice, and such notice without any specifications, should not be accepted in the eye of law.

Mr. Arijit Dey, learned Advocate appearing on behalf of the Baranagar Municipality, submits that a preliminary inspection was held and some deviations have been detected.

However, this Court is of the opinion that an inspection must be made in the presence of the parties especially the developers who can be explained by the authorities the nature and extent of the alleged deviations, if detected.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Baranagar Municipality to act and proceed in accordance with law and in the manner stated hereinbelow:

- (a) The competent authority of the Baranagar Municipality shall cause an inspection of the premises in question in the presence of the interested parties including the petitioners and the partners of the respondent No.8 in order to ascertain whether there has been any unauthorised construction and also to ascertain the extent and nature of the unauthorised construction, if any, within three weeks from date.
- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioners as also the partners of the respondent No.8 shall be given a hearing.
- (d) The interested persons shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the time of hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention, the entire proceedings, so initiated, shall be reached to its logical conclusion.

(g) If the construction is continuing, then interim measures shall be taken.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the Baranagar Municipality.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)