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23.11.2022
d.p.

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

W.P.A 20126 of 2022

**Ishanika Developers Pvt. Ltd.
-versus
The State of West Bengal & Ors.**

**Mr. Mahendra Prasad Gupta,
Mr. Ayan Mitra.
...For the Petitioner.**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali.
...For the Bally Municipality.**

**Mr. Biswabrata Basu Mallick.
...For the Respondent No.7.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner is aggrieved by the notice dated 25th July, 2022 issued under Section 220(1) of the West Bengal Municipal Act, 1993 directing the petitioner to forthwith stop construction on receipt of the notice, as construction was being made without obtaining sanction as required under the law or have been carrying on construction unlawfully in breach of provision of the West Bengal Municipal Act, 1993.

The petitioner submits that there is a sanction for construction of G+6 storied building. The petitioner states that construction is being made in accordance with the plan sanctioned.

Learned advocate appearing for the Bally Municipality submits, upon instructions, that there is massive deviation in the construction made by the petitioner in each and every floors. Approximately 140 sq.mt. deviation has been found in all the floors constructed by the petitioner upto the 6th floor level. The 7th floor has been constructed without any sanction at all.

Learned advocate appearing for the respondent No.7, at whose instance the impugned notice was issued to the petitioner, submits that complaint was filed relying upon the representation made by one Smt. Kalpana Pal with reference to an order passed by the learned Civil Court at Howrah.

It appears from the submissions made on behalf of all the parties that a sanction was granted in favour of making construction of G+6 storied building. Whether the construction is being made in accordance with the plan sanctioned is to be scrutinized by the Municipality.

Learned advocate appearing for the Municipality submits that an inspection was conducted. The same is disputed by the learned advocate appearing for the petitioner.

In view of the above, the engineer of the Bally Municipality is directed to conduct a fresh spot inspection upon prior notice to the petitioner as well as the respondent No.7.

The inspection shall be conducted by 9th December, 2022.

Report of inspection shall be forwarded to both the parties by 16th December, 2022. Final order shall be passed after giving an opportunity of hearing to both the parties within a period of four weeks thereafter. The same shall be communicated to the parties immediately.

In the event it is found that there is any unauthorized construction, the same shall be dealt with by the Municipality in accordance with law.

Till final order is passed the Municipality is directed to ensure that no unauthorized construction is carried on at the subject premises.

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.)