

Item No. 48

19.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20148 of 2022
Manashi Mohanta & Anr.
v.
State of West Bengal & Ors.

Mr. Samrat Choudhury
Mr. Palash Bepari
... for the petitioners.

Mr. S. Adak
Ms. Arpita Mondal
... for the Municipality.

Mr. B.N. Ray
Ms. Shetparna Ray
... for the private respondent.

Mr. Himadri Sikhar Chakraborty
Ms. Susnita Saha
... for the State.

The petitioners complain that the respondent no. 8 has made construction in deviation of the plan sanctioned without maintaining the mandatory side open spaces.

Learned advocate representing the respondent no. 8 vehemently opposes and denies the allegation of the petitioners. It has been submitted that construction was made by his client in the year 2004. The petitioners never raised any grievance till a complaint was filed by his client alleging unauthorized construction by the petitioners. The aforesaid writ petition has been filed as a counter case to the petition filed by the petitioners.

It has been contended that all steps taken by the Municipality will be set at naught if any direction is

passed upon the Municipality to consider the representation filed by the petitioners.

According to the private respondent, the Court took cognizance of the matter and passed necessary order in the writ petition filed by the private respondent being WPA 18284 of 2021.

It has been further submitted that a contempt proceeding has already been initiated by the private respondent for non-compliance of the direction passed by the Court in the said writ petition.

The learned advocate representing the Municipality submits, upon instruction, that the complaint filed by the private respondent has duly been taken up for consideration but the complaint of the petitioner is yet to be addressed.

According to the provisions of law, construction is supposed to be made in accordance with the relevant municipal laws. The petitioners allege that construction has been made in deviation of the plan sanctioned and without maintaining the mandatory side open spaces.

In view of the above, the Arambagh Municipality is directed to ascertain as to whether there has been any unauthorized construction at the behest of the respondent no. 8 by making construction in deviation of the plan sanctioned and without maintaining the statutory side open spaces.

The Municipality is directed to conduct a spot inspection upon prior notice to the petitioners as well as the private respondent to ascertain the veracity of the allegation of the petitioner.

In the event, it transpires that construction has been made in deviation of the plan sanctioned, without maintaining the statutory side open spaces, then necessary consequential steps shall be taken to deal with the same.

It is made clear that this Court has not entered into the merits of the claim of the petitioners. The Municipality shall restrict the consideration only with regard to the above two points mentioned and will not entertain any private dispute in between the parties.

A reasoned order shall be passed and communicated to the parties. Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

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

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

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(Amrita Sinha, J.)