

11. 09.11.2022
Ct. No.6
Tanmoy

M.A.T. 1429 of 2022

**Prasanna Jash & Ors.
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2022**

Mr. Debasish Saha, Adv.,
Mr. Moniruzzaman, Adv.,
Mr. Basudeb Dan, Adv.

...for the appellants.

Mr. Subhasis Bandopadhyay, Adv.

...for the Burdwan Municipality.

Mr. Debasish Ghosh, Adv.,
Mr. Varun Kothari, Adv.

...for the respondent no. 8.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

A judgment and order dated July 4, 2022, whereby WPA 11975 of 2020 was dismissed, is the subject-matter of challenge in this appeal.

The appellants/writ petitioners, 46 in number, approached the learned Single Judge claiming to be flat owners in a multi-storeyed building at Barddhaman Housing, Phase-II, G.T. Road, Burdwan – 713103. Their grievance was that completion certificates and mutation certificates were not being issued by the Burdwan Municipality in their favour. Their further grievance was that the Municipality was not considering their

representation dated December 22, 2020 wherein they had made certain complaints regarding the construction in question.

The learned Judge observed that there was a particular procedure laid down in the West Bengal Municipal Act, 1993 according to which, a completion certificate is to be issued. The writ petitioners without obtaining completion certificates had taken possession of the respective flats. This was impermissible in view of Section 212(2) of the 1993 Act. On that ground, the learned Judge refused to grant the prayers in the writ petition and dismissed the writ petition. Hence this appeal.

Learned Advocate for the appellants says that subsequent to filing of this appeal, completion certificates have been issued by the Municipality to the developer being the respondent no. 8 herein. Hence, the grievance of the appellants on that score should stand redressed. The mutation certificates should also be issued following due process of law.

Insofar as non-consideration of the representation made by the appellants is concerned, we are of the view that a more comprehensive representation should be made by the appellants to the Burdwan Municipality. The appellants would be at liberty to make such representation within a fortnight from date. If such representation is made within the time period indicated, the concerned Officer in the Municipality shall dispose of the same, in accordance

with law and the applicable Rules and Regulations, if any, by a reasoned order, within a period of six weeks from the date of receipt of the representation, after giving an opportunity of hearing to all concerned including the appellants and the respondent no.8 herein. The order so passed shall be communicated to the concerned parties within a week from the date of the order. Needless to say, if the Municipality deems it necessary for the purpose of disposing of the representation of the appellants to conduct a local inspection of the property in question, it will be at liberty to do so.

We have not gone into the merits of the disputes between the parties. It will be up to the Municipality to take an informed decision, in accordance with law, if any representation is made by the appellants.

Since we have not called for affidavits, the allegations made in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being M.A.T. 1429 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are accordingly disposed of.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)