

Item No. 11

20.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 21759 of 2022

Manju Mondal & Anr.
v.
The State of West Bengal & Ors.

Mr. Balailal Sahoo
Mr. Manoranjan Mahata
... for the petitioners.

Mr. Jaharlal De
Mr. Shamim ul Bari
... for the State.

Mr. Raghunath Chakraborty
Mr. Mahaboob Ahmed
... for the Municipality.

Ms. Pampa Dey (Dhabal)
... for the respondent no. 9.

The petitioner is aggrieved by the order of demolition passed by the Chairman, Maheshtala Municipality on September 13, 2022. The construction was made under the House for All Scheme.

The petitioner claims to be a beneficiary under the House for All Scheme. The detailed estimate for making construction is annexed as annexure P-3 to the writ petition. It appears therefrom that the name of the beneficiary is one Ismail Molla. The Pradhan Mantri Awas Yojana Housing for All (Urban) sketch map is annexed at page 36 of the writ petition. The name of the beneficiary mentioned therein is Ismail Molla.

The petitioner has failed to show any document that she is a beneficiary of the aforesaid scheme.

The private respondent filed a writ petition earlier alleging unauthorized construction. The Court by order dated September 18, 2020 was pleased to hold that the plea of the private respondent, i.e. the petitioner herein, that construction being made under the Pradhan Mantri Awas Yojana is immune to Municipal laws, is specious, unacceptable and is rejected. The Court directed that since the Municipality found infraction of the Municipal laws in the construction, it will proceed in accordance with law.

The Municipality thereafter sought help from the BL & LRO for demarcation of the properties but the BL & LRO refused to enter into the disputes between the private parties.

The Municipality concluded the proceeding and was of the opinion that the petitioner herein made construction without any permission and the construction raised on the disputed subject land shall be treated as unauthorized construction and therefore, liable to be dismissed.

The petitioner has been directed to demolish the unauthorized construction by September 22, 2022 failing with the Municipality will demolish the same and recover the costs from the party concerned.

From the submissions made on behalf of the parties it appears that there is no permission/ sanction in favour of the petitioner for making construction in accordance with the scheme.

Learned advocate for the petitioner submits that the Municipality is extending benefit of the scheme in respect of all beneficiaries in a cyclostyle manner and

the name of Ismail Molla is wrongly appearing in the documents annexed to the writ petition.

The aforesaid submission of the petitioner cannot be accepted by the Court. There is nothing on record to show that the benefit of the scheme was at all extended in favour of the petitioner.

It does not appear that there is any error in the order dated September 13, 2022.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)