

30.09.2022
Item No.6.
Court No.6.
AB

**M.A.T. 1666 of 2022
With
IA CAN 1 of 2022**

**Joydeb Naskar & Anr.
Vs
The Bidhannagar Municipal Corporation & Others**

Mr. Mainak Bose,
Mr. Prabhat Kr. Srivastawa,
Mr. Supratic Royfor the Appellants.

Mr. Partha Chakraborty,
Ms. Sharmistha China
.....for the Respondent No.5.

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag,
Mr. Tirthankar Deyfor the Corporation.

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

This appeal is directed against a Judgment and Order dated September 28, 2022, whereby the writ petition of the appellants was dismissed.

The appellants/writ petitioners approached the learned Single Judge challenging a Notice dated May 2, 2022, issued by the Bidhannagar Municipal Corporation (in short "BMC") intimating that demolition of the unauthorized structure constructed by the appellants will be carried out by BMC and the appellants were called upon to vacate the property within a period of seven days from the date of issuance of the order.

The learned Judge noticed a report that was filed by BMC recording that no sanction had been obtained by the appellants from BMC for making the impugned construction. Learned Advocate representing the appellants/writ petitioners candidly submitted before the learned Judge that there is no plan following which construction had been made. The learned Judge dismissed the writ petition observing as follows:

“Law bars any type of construction without obtaining any permission/sanction from the concerned authority. The petitioners have taken risk to make construction without obtaining any sanctioned plan. No amount of leniency should be shown to a party who makes construction without any sanctioned plan/ permission and approaches Court for relief when steps are taken to remove such unauthorized construction.

At this stage, it does not appear there is any reason to interfere with the order impugned directing vacating of the premises for the purpose of effecting the demolition.

In view of the above, the writ petition fails and is hereby dismissed.”

Before us, the appellants tried to place various previous orders of learned Single Judges of this Court in other proceedings. However, to our simple query, whether or not there is a sanctioned plan in favour of the appellants, there is no answer. Indeed, there can be no answer since it was admitted before the learned Single Judge that there is no sanctioned plan.

We are in complete agreement with the learned Judge that no leniency should be shown to a person, who takes law in his own hand and makes construction without obtaining permission from the concerned Authority. The same cannot be countenanced in a society governed by the Rule of Law. One may refer to the decision of the Hon'ble Supreme Court in the case of ***Dipak Kumar Mukherjee Vs Kolkata Municipal Corporation & Others*** reported at **(2013)5 SCC336**. If completely illegal constructions are allowed to remain, the common people at large will feel cheated. We see no reason to interfere with the order under appeal.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

M.A.T. No.1666 of 2022 is, accordingly, dismissed along with IA CAN 1 of 2022 without, however, any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

