

Item No. 11

20.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 27765 of 2022
Usha Agarwal & Anr.

v.

The Bidhannagar Municipal Corporation & Ors.

Mr. Srijib Chakraborty
Mr. Sunny Nandy
... for the petitioners.

Mr. Tanmoy Mukherjee
Mr. Deeptangshu Kar
... for the respondent nos. 7 to 9.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Tirthankar Dey
Mr. Deboleena Ghosh
... for BMC.

The petitioners are aggrieved by the order passed by the Commissioner, Bidhannagar Municipal Corporation dated November 26, 2022 whereby the construction standing at Dassodrone Bongolaxmi Abasan, P.O.-Rajarhat Gopalpur, P.S. -Baguiati, Kolkata-700136, Ward No. 5 under the Bidhannagar Municipal Corporation has been directed to be demolished on the ground that the same was being constructed relying upon a plan which was not genuine.

Upon perusal of the order impugned in the present writ petition it appears that no opportunity of hearing was given to the petitioners who claim to be co-owners of the subject property prior to passing the said order.

The petitioners have produced a plan before this Court.

The Court is not in a position to verify as to whether the same is genuine or not.

The petitioners claim that the plan according to which construction is being made was issued by the erstwhile Rajarhat-Gopalpur Municipality which subsequently got merged with the Bidhannagar Municipal Corporation.

Learned advocate representing the Bidhannagar Municipal Corporation is yet to receive any instruction in the matter.

As it appears that there is no details mentioned in the impugned order relying on which the Corporation arrived at a conclusion that the plan is not genuine, accordingly, the Commissioner, Bidhannagar Municipal Corporation is directed to revisit the issue after giving an opportunity of hearing to the petitioners as well as the private respondents.

The petitioners will be at liberty to produce the original plan according to which they claim to have made the construction.

The Corporation is directed to supply to the petitioners the documents relied upon by the authority at the time of arriving at a decision in the instant matter.

A reasoned order shall be passed by the Commissioner upon perusal of the sanctioned plan relied upon by the petitioners.

A decision shall be taken in the matter at the earliest but positively within a period of six weeks from the date of communication of a copy of this order.

The order passed by the Commissioner, Bidhannagar Municipal Corporation dated November 26, 2022, impugned in the present writ petition, shall be kept in abeyance till a fresh decision is taken and communicated to the parties.

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.)