

10 31.08.2022
& Ct.15
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Bd.

W.P.A. 29445 of 2017

Mrs. Kanika Biswas

-vs-

The State of West Bengal & Ors.

With

W.P.A. 326 of 2015

Kanika Biswas

-vs-

State of West Bengal & Ors.

Mrs. Kanik Biswas

... Petitioner
(appearing in person)

Mr. Atis Kumar Biswas
Mr. Suman Chakraborty

....for the private respondent.

Mr. Sandip Kumar Bhattacharyya,
Mr. Suman Basu

....for the Hooghly Zilla Parishad.

Mr. Biswanath Samanta

....for the State.
(in WPA 29445 of 2017)

Mr.Biswajit Sarkar
Mr. Surajit Basu
Ms. Ranu Mondal

... for the respondent no.3
(in WPA 29445/2017)
and respondent no. 5
(in WPA 326 of 2015).

Mr. Koushik Roy

... for the WBSEDCL

The writ petition being WPA 29445 of 2017

is finally taken up for consideration today in presence of the learned advocates representing Pradhan, Singur Gram Panchayat being the respondent no. 3, State-respondents and private respondent nos. 9 & 10. However, writ petitioner appears in person.

In this writ petition the decision of the Pradhan Singur Gram Panchayat being respondent no. 3 is questioned whereby the respondent no. 3 declared the construction made by the petitioner on the plot of land under Dag No. 342, Khatian No. 238/1, J.L. No. 79, Mouza-Jalalghata at Singur being unauthorised and also directed necessary action would be taken for demolition of the building of the petitioner. On perusal of such order of demolition of respondent no. 3 it appears that the said respondent no. 3 proceeded on the premise that in spite of providing repeated opportunity to the petitioner to produce sanctioned plan the same was not placed before the respondent no. 3 for consideration and nothing was found on the records maintained in the office of the respondent no. 3 relating to such sanctioned plan issued in favour of the petitioner permitting her to construct, led the respondent no. 3 to pass order of

demolition.

The writ petition has been heard on number of occasions. It is the contention of the petitioner that before constructing the residential house a sanctioned plan was obtained by the petitioner from the office of the respondent no. 3 dated 17th June, 2000 which is at page 85 of the writ petition. The original sanctioned plan dated 17th June, 2000 was also produced before this Court on previous occasion. It has been contended on behalf of the petitioner that since the construction has been made on the aforesaid land in terms of the sanctioned plan dated 17th June, 2000 respondent no. 3 committed error in declaring such construction as unauthorised based on the premise that petitioner did not obtain any sanction plan.

This Court in consideration of production of original sanctioned plan and the copy of the same is annexed at page 85 to the writ petition granted opportunity to the respondent no. 3 to file a report in form of affidavit since no affidavit in opposition was used by the said respondent no. 3. In terms of the order dated 19th July, 2022 a report has been filed by the respondent no. 3 on previous occasion

which was affirmed on 28th July, 2022. On perusal of such report it appears that there is an admission on the part of the respondent no. 3 that the records relating to issuance of sanctioned plan prior to the year 2005 are not maintained in the office of the said respondent no. 3. It is further stated in the said report that in absence of such records and the sanctioned plan produced by the petitioner is dated 17th June, 2000 the respondent no. 3 could not verify the sanctioned plan of the petitioner on comparing with the records maintained in the office of the respondent no. 3 and decided that there was no sanctioned plan issued in favour of the petitioner which led to the declaration that the construction made by the petitioner is unauthorised.

In consideration of the submissions made on behalf of the learned advocates representing the respondent no. 3 and the writ petitioner who is appearing in person and in view of production of original sanctioned plan dated 17th June, 2000 it appears that petitioner made construction on the aforesaid plot of land based on such approved plan dated 17th June, 2000.

Today, Mr. Surajit Basu, learned advocate

representing the respondent no. 3 has also very fairly submitted on seeing the original sanctioned plan dated 17th June, 2000 that the impugned order of demolition dated 25th May, 2016 ought not to have been issued by the respondent no. 3 since the records relating to sanctioned plan prior to 2005 were not maintained in the office of the said respondent no. 3. In absence of such records relating to sanctioned plan prior to the year 2005 the respondent no. 3 while deciding nature of construction made by the petitioner should have proceeded on the basis of the sanctioned plan dated 17th June, 2000 possessed by the petitioner. However, this Court is aware of the plea taken by the respondent no. 3 in the order of demolition dated 25th May, 2016 that in spite of repeated requests the said sanctioned plan was not produced before the respondent no. 3 before taking such decision. However, such stand of the respondent no. 3 as it emanates from the impugned order dated 25th May, 2016 is disputed by the petitioner who is appearing in person.

Be that as it may, on scrutiny of the relevant documents it appears that the respondent no. 3 issued one sanctioned plan on 17th June,

2000 therefore in absence of the relevant records relating to such sanction plan in the office of the respondent no. 3 the said respondent no. 3 should not have passed an order of demolition dated 25th May, 2016.

In above conspectus the said order of demolition dated 25th May, 2016 stands set aside.

However, on behalf of the respondent no. 3 attention of this Court has been drawn to one verification report dated 17th March, 2016 which is at page 6 of the report filed by the respondent no. 3 wherefrom it appears that on the southern part of the building of the petitioner the requisite space which is required to be maintained between the premises of the petitioner and the nearby road has not been maintained. In consideration of the contents of such report the respondent no. 3 shall be at liberty to take necessary steps based on such verification report dated 17th March, 2016 for due compliance of the said sanctioned plan dated 17th June, 2000 by the petitioner in accordance with law.

With the above direction and observation the writ petition being WPA 29445 of 2017 stands disposed of.

However, there shall be no order as to costs.

However, this order shall not preclude the petitioner to question the provisional certificates issued in favour of the respondent nos. 9 and 10 in a separate proceeding in accordance with law.

Let the writ petition being WPA 29445 of 2017 be de-tagged.

List the writ petition being WPA 326 of 2015 in the combined list of November, 2022 under the heading "Hearing".

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)