

Sl. No.281
27.06.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 9150 of 2020

Pradip Saha & Anr.
Versus
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee
Mr. Sandip Kundu
Mr. Devdutta Pathak

... for the petitioners

Mr. Swarup Kumar Ghosh

... for the respondent nos.3 & 4

Mr. S. Sanyal

Mr. Snehasis Jana

... for the private respondent

The petitioner alleges illegal and unauthorised construction by the private respondent.

Learned advocate for the private respondent submits that the construction has been made on the basis of the sanction granted by the Ghatal Municipality.

The Administrator of the Ghatal Municipality by a communication dated 28th September, 2020 intimated the petitioners that the building has been constructed as per the Government directive following model plan design by the Government. The addition, if any, beyond model plan will be regularized through due process as and when the beneficiary submits the same before the office.

The petitioner is not aware as to whether the alleged illegal construction has been regularised or not.

A representation has been made by the petitioner alleging illegal and unauthorised construction at the instance of the private respondent in October, 2020.

The petitioner alleges that the said representation has not been taken up for consideration till date.

Learned advocate representing the private respondent raises an issue with regard to the maintainability of the writ petition at the instance of the writ petitioner.

It has been submitted that the petitioner is not a person aggrieved and accordingly, the writ petition at his instance ought not to be entertained.

Learned advocate representing the Ghatal Municipality submits that a building permit was registered in the name of the private respondent on 15th October, 2020 and the plan for construction was sanctioned on 23rd December, 2020.

As regards the maintainability issue that has been raised by the private respondent, the Court is of the opinion that as the issue relates to illegal and unauthorised construction, the writ petition at the instance of a stranger is also maintainable.

The petitioner has alleged that the right of the petitioners to proper access is being blocked in view of

the construction that has been made by the private respondent.

In view of the above, the instant writ petition is disposed of by directing the Ghatal Municipality to take a decision with regard to the representation filed by the petitioner alleging illegal and unauthorised construction dated 12th October, 2020 strictly in accordance with law, at the earliest, after giving an opportunity of hearing to all the necessary parties and to pass a reasoned order and communicate the same to the parties immediately thereafter.

The Municipality, prior to taking a decision in the matter, shall conduct a spot inspection to come to a finding whether there has been any unauthorised construction or not. Relying upon the inspection report, a decision shall be taken by the Municipality.

The Municipality is restrained from entering into or deciding any private dispute in between the parties.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

Instruction given by the Ghatal Municipality dated 13th January, 2021 be retained with the records.

Since the writ petition is being disposed of without calling for any affidavits, allegations made

therein are deemed to have been denied by the respondents.

Writ petition stands disposed of.

Affidavit of service affirmed on 27th June, 2022 also retained with the records.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)