

Sl. No.87
18.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11190 of 2020

Nandarani Mondal & Ors.
Versus
State of West Bengal & Ors.

Mr. Tanmoy Khan

Mr. Palash Bapari

... for the petitioners

Mr. Suprio Ray Choudhury

Mr. Sankar Ghosh

... for the respondent no.1

Learned advocate representing the respondent no.1
has filed his Vakalatnama in the department being filing
No.A-12683 dated 12.07.2022.

The department is directed to tag the Vakalatnama
with the records of the present case.

The petitioners allege illegal and unauthorised
construction at the instance of the respondent no.3 on
the holding No.976, Madhya Baluria, Nabapally, P.O. &
P. S. Barasat, PIN-700126, under Ward No.6 under the
jurisdiction of Barasat Municipality.

It has been mentioned in the writ petition that plan
was sanctioned in the year 2001 but due to financial
problem construction could not be completed. The
respondent no.3 has presently completed the said

incomplete construction without obtaining further sanction from the Barasat Municipality.

It has been submitted that previously a tin shed construction was standing on the said plot of land but recently the same has been made pucca by the respondent no.3.

The petitioners submit that a representation was made before the Chairman and Sub Assistant Engineer of the Barasat Municipality in October, 2020 alleging such illegal and unauthorised construction but the same has not been taken up for consideration till date.

Learned advocate representing the Barasat Municipality submits upon instruction that a spot inspection was conducted on 12th July, 2022 wherefrom it reveals that there was a plan sanctioned in 2001 but the said plan was not renewed and accordingly, plan is not valid at present. Presently no new construction was found at the site.

The instruction by the Sub Assistant Engineer, Barasat Municipality does not reveal as to whether inspection was made upon giving prior notice to the parties.

Accordingly, the instant writ petition is disposed of by directing the respondent no.2 i.e., Sub Assistant Engineer, Building Department of Barasat Municipality to conduct a fresh inspection upon giving prior notice to the petitioners as well as the respondent no.3 and

thereafter take a decision with regard to the complaint filed by the petitioners in October, 2020 alleging unauthorised construction.

The representation of the petitioners shall be considered and disposed of by the aforesaid authority strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioners and all other necessary parties at the earliest, but positively within a period of four months from the date of communication of this order.

The aforesaid authority shall pass a reasoned order and communicate the same to the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by 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.

The petitioner is directed to forward a copy of the representation dated 7th October, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on record.

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

(Amrita Sinha, J.)