

Sl. No.77
04.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11975 of 2020

Prasanna Jash & Ors.

v.

The State of West Bengal & Ors.

Mr. Debasish Saha
Mr. Moniruzzaman
Mr. Basudeb Dan

... for the petitioners

Mr. Aswini Kumar Bera

... for the State

The petitioners claim to be flat holders of multi storied building at Barddhaman Housing, Phase-II, G.T. Road, Police Line, Opposite Chhinnamasta Kali Mandir, Burdwan-713103.

The petitioners pray for a direction upon the Burdwan Municipality to issue Completion Certificate in their favour. The petitioners also pray for mutation of the respective flat in their names.

The petitioners submit that a representation has been made before the Municipality and the same may be considered.

Learned advocate representing the Municipality relies upon Section 212 of the West Bengal Municipal Act, 1993. The said provision relates to issuance of Completion Certificate. Section 212(1) mentions that :-

“Every person submitting an application with building plan or a work to which such application relates shall, within one month after the completion of the erection of such building or execution of such work, deliver or send or cause to be delivered or sent to the Municipality a notice, in writing, of such completion accompanied by a certificate in such form as may be prescribed and shall give to the Municipality all necessary formalities for inspection of such building or work.”

The aforesaid implies that for the purpose of obtaining a Completion Certificate an application along with building plan is required to be submitted within a month after completion of erection of such building. The said application is required to be made in a prescribed form. An inspection of the construction is also to be conducted prior to issuance of the Completion Certificate.

The petitioners have not annexed a copy of the building plan.

It is not for an individual flat holder to apply before the Municipality for obtaining a Completion Certificate.

A particular procedure has been laid down in law according to which a Completion Certificate is to be issued. The petitioners without obtaining a Completion Certificate have taken possession of the respect flats and are occupying the same. The same is impermissible

in view of the provision of Section 212(2) of the Act.

Section 212(2) mentions that –

No person shall occupy or permit to be occupied any such building or use or permit to be used any building or any part thereof effected by any such work until permission has been granted by the Municipality in this behalf in accordance with rules and regulations made in this Act.

The petitioners have occupied the flats in question without obtaining necessary permission from the Municipality.

The prayer of the petitioner for issuance of Completion Certificate and mutation of the flats in question cannot be accepted by the Court.

The writ petition fails and is hereby dismissed.

Dismissal of the present writ petition will, however, not stand in the way of the petitioners from approaching the appropriate forum in accordance with law, if permissible.

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

(Amrita Sinha, J.)