

3.2.2022
Ct.. No.19
JL-1
sn

W.P.A. No. 184 of 2022

Bagdogra Developers Pvt.Ltd. & Anr.

Vs.

The Matigara Panchayat Samity & Ors.

Ms. Sulagna Mukherjee
Mr. Shivam Bhimsaria
.....for the petitioners
Mr. Raja Saha
Mr. Arpita Saha
Mr. Sanjoy Mukherjee
..for the respondent no.4
Mr. Subir Kr. Saha
Mr. M. Rahaman
..for the State
Mr. Srijib Chakraborty
Mr. Ajay Singhal
..for the intervenor
Mr. Joyjit Chowdhury
Mr. Aditya Mondal
..for Chandmoni Uttaroyon Welfare Society

Leave is granted to Mr. Joyjit Chowdhury to intervene in the proceeding on behalf of the Society.

CAN 1 of 2022 has been filed by two plot owners of Uttarayan Township. This is an application for addition of parties. As the said plot owners/applicants have raised certain disputes with regard to the proposed building plan and assignment of the plots to the petitioners by Luxmi Township, the Court allows the application for addition of parties. Let Sri Tapan Das and Smt. Banani Das be added as respondent nos.5&6 in the writ petition. As the original CAN 1/2022 cannot be traced out, photocopy of the same is

taken on record with the consent of the parties and treated to be the original.

The learned advocate on record for the petitioners is directed to add the applicants as respondents in the writ petition.

A copy of the writ petition be served upon the learned advocate appearing on behalf of the intervenors, upon, the learned advocate on record for the added respondents as also upon Mr. Subir Kumar Saha, learned Additional Government Pleader who appears on behalf of the panchayat samiti.

The allegation in the writ petition is against the Matigara Panchayat Samiti with regard to alleged inaction in disposing of the site plan and the building sanction plan submitted by the petitioners. The petitioners also submit that their plots were within the excluded area and not the green area and there were no reasons as to why there could be any opposition with regard to the development of the said plots which were essentially for the benefit of the people in the locality.

The reasons assigned to the petitioners by the Executive Officer, Matigara Panchayat Samiti in the letters dated March 10, 2021 and March 22, 2021 are under challenge before this Court. It is submitted that the orders passed by the learned District Judge, Darjeeling and the West Bengal Consumer Redressal Forum which have been mentioned in the letters have been vacated and as such the

reasons assigned for not granting the sanction or in not proceeding with the plan for sanction, were not correct. It is further submitted that the disputes between Luxmi Township and Chandmoni Uttaroyon Welfare Society could not be an impediment towards grant of sanction, in case the petitioners fulfilled all the other criteria under the law to be accorded sanction by the panchayat samiti.

It is further submitted that the Siliguri-Jalpaiguri Development Authority had granted the land use and compatibility certificate to the petitioners. The petitioners, who have been assigned the plots upon payment of due consideration, could not be deprived of their rights to the construct on the said plots. According to the petitioners, the rights of the petitioners to proceed on the basis of the deed of assignment has not been curtailed by any court of law.

Mr. Chowdhury, learned advocate who appears on behalf of the welfare society/intervenors denies the allegations of the petitioners and submits that the master plan was revised illegally by Luxmi Township. Any assignment of the plots pursuant to the revision of the master plan was illegal and void. Mr. Chowdhury further submits that the National Commission had already passed an order with regard to the disputes involved in the writ petition. According to him the revision of the master plan was illegal and the matter was pending before the Division Bench.

Mr. Chakraborty, learned advocate appears on behalf of the added respondents and submits that his clients were adjacent plot owners to the plots which were sought to be developed by the petitioners and a writ petition has been filed challenging the revision of the master plan. He submits that if the challenge to the revision of the master plan succeeds, then the assignment of the plots to the petitioners would automatically become void.

Having heard the learned advocates for the respective parties, certain factual issues are required to be recorded. The petitioners have been assigned the plots by Luxmi Township under a deed of assignment. There is nothing on record to show that there has been any order of any court in respect of the said deed of assignment. The challenge of the society to the revision of the master plan on the basis of which the alleged plots have been converted for commercial use, was dismissed by the writ court. An appeal has been preferred therefrom. No interim order was granted. The appeal is pending for final hearing. It is submitted that a Title Suit is pending between the petitioners and the society but there is no order of injunction in the said suit. As of now, it is the specific contention of the petitioners that the order passed in respect of the rights of the petitioners vis-à-vis the plots do not exist and there were no orders of injunction against the petitioners.

This Court does not think it fit to keep the writ petition pending for further deliberation and remits the

matter to the Executive Officer, Matigara Panchayat Samiti, the respondent no.2 herein, to take a decision on the site plan and the sanction plan filed by the petitioners. While taking such decision all the parties shall be heard.

This Court has not gone into the merits of the claims of any of the parties and the parties shall be at liberty to submit their respective contentions before the respondent no.2 in accordance with law and they shall be allowed adequate opportunity to place the documents as evidence in support of their contentions. Whether the revised master plan has been acted upon in case of other purchasers, whether similarly situated purchasers were granted sanction and whether the revised master plan has been interfered with by any court of law must be looked into.

The Executive Officer, Matigara Panchayat Samiti, being the respondent no.2 shall take into consideration each and every order, document and submission that shall be advanced by the parties and pass an order strictly in accordance with law, independently. The parameters required to be maintained and followed by the intending builders for sanction of the site plan and building plan in the facts and circumstances of this case shall be decided along with the other issues raised.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)