

13.06.2023
Item No. 41
Court No. 24
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 414 of 2023

Kamil Hayat @ Kamil Hayat Khan & Ors.

Vs

The Purulia Municipality & Ors.

Mr. Nonigopal Chakraborty

... for the Petitioners

Mr. Rwitendra Banerjee

Mr. Shibasis Chatterjee

Mr. Devdutta Pathak

... For the respondent no. 9.

The petitioners allege illegal and unauthorised construction at the instance of the private respondent no. 9. Allegation is that construction is being made without maintaining the mandatory side open spaces. Objection filed against the said unauthorised construction is pending consideration till date.

Learned advocate representing the private respondent no. 9 submits, upon instruction that, the present writ petition has been filed out of spite and vengeance. Reference has been made to the order passed by this Court against the petitioners in respect of unauthorised construction where the Municipality took steps for demolition of the said construction. After the unauthorised construction of the petitioners was demolished by the Municipality, the present writ petition has been filed.

Learned advocate for the private respondent produces a copy of the plan in support of the submission that the construction is being made strictly in accordance with the plan sanctioned by

the Municipality. It has been submitted that the Municipality has sanctioned G+5 storied building to be constructed at the subject premises. The private respondent is making construction in accordance with the said plan. Copy of the sanctioned plan has been produced in Court.

From the submissions made on behalf of both the parties and upon perusal of the materials before the Court, it appears that the construction in question is being made pursuant to the plan sanctioned by the Purulia Municipality.

The petitioners allege that the mandatory side open spaces are not maintained. The objection filed by the petitioners does not clearly specified the illegalities allegedly committed at the time of raising construction.

It will be open for the petitioners to raise fresh objection specifying the alleged illegality, if any, at the time of making construction.

In the event fresh representation is made by the petitioners, the same shall be considered in accordance with the law by the Purulia Municipality after giving reasonable opportunity of hearing to all the necessary parties.

A reasoned order shall be passed and communicated to the parties immediately thereafter.

If any unauthorised construction is detected, then necessary steps shall be taken by the Municipality to deal with the same in accordance with law.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)