

Item No.35

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.04.2023
Ct-24

WPA 5529 of 2023
Mir Abdul Rasid & Anr.

v.

The State of West Bengal & Ors.

Mr. Amit Baran Dash

Ms. Ankana Sarkar

... for the petitioners.

Mr. Kaushik Chatterjee

Mr. Nilanjan Adhikari

... for the respondent nos. 3 to 6.

Mr. Tulsi Das Maiti

Mr. Pradip Kumar Ghosh

... for the respondent no. 8 & 9.

Mr. Narayan Chandra Bhattacharyya

Ms. Sujata Ghosh

... for the State.

The petitioners complain of illegal and unauthorized construction at the instance of the private respondent nos. 8 & 9. The objection filed by the petitioners is allegedly pending consideration before the Contai Municipality.

Learned advocate representing the respondent nos. 8 & 9 opposes the prayer of the petitioners. It has been submitted that the writ petition is liable to be dismissed on the ground of suppression of material facts.

The private respondents submit that construction was made in the year 2018 on the basis of the plan sanctioned by the Municipality and the petitioners lodged complaint before the Municipality in the year 2023 only after the private respondents lodged objection against the petitioners alleging unauthorized construction.

A writ petition was filed at the instance of the private respondents against the petitioners herein. Out of vengeance and spite the instant writ petition has been filed.

Learned advocate representing the Municipality submits that the representation of the petitioners will be taken up for consideration.

In the writ petition and in the objection filed by the petitioners there is no mention as to when the construction was made by the private respondents. The private respondents assert that construction was made in the year 2018 in accordance with the plan sanctioned.

It appears that the private respondents did not raise any objection at the time of raising the construction and even after five years of making the construction. Only after the private respondents lodged complaint against the petitioners alleging unauthorized construction, the petitioners as a counter-blast filed objection before the Municipality alleging unauthorized construction at the instance of the private respondents.

It appears that the instant writ petition has been filed after the Municipality took steps against the petitioners in response to the complaint lodged by the private respondents. The writ petition appears to be filed

with mala fide intention to take revenge against the petitioners. The same cannot be allowed by the Court.

The writ petition stands dismissed.

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

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(Amrita Sinha, J.)