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Ct No 2023
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AGM

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

WPA 7758 of 2023

**Arnab Kumar & Ors.
Vs
The State of West Bengal & Ors.**

Mr. Pritam Majumdar
... For the petitioners.

Mr. Srinjoy Das
... For the respondent nos. 6 and 7.

Mr. Sougata Mitra
... For the Municipality.

Mr. Bibek Jyoti Basu
Mr. Uttam Kumar De
Ms. Ankita Mukherejee
... For the State.

Report of spot inspection has been filed in Court with copy to the learned advocate representing the petitioners and the private respondents.

The petitioner complains of illegal construction of fifth floor. It has been submitted that the structure in question was initially G+4 storied building and the roof was sold to the petitioners by the private respondents. Thereafter, the private respondents could not have raised any construction over the roof.

Prayer was made for sanction of the fifth floor. Prior to the permission being granted for raising construction, the private respondents completed the construction of the fifth floor. The Municipality thereafter accorded sanction to the illegally constructed fifth floor by imposing fine in

the year 2019.

The report further mentions that there is deviation in the construction made.

The Municipality is the appropriate authority to take steps for dealing with any deviation that has been made at the time of making construction.

The petitioners are aggrieved by the act of the Municipality in according sanction to the illegally constructed floor upon acceptance of fine.

It has been submitted that there is no provision in law for regularizing a structure constructed illegally upon payment of fine.

It will be open for the petitioners to challenge the action of the Municipality to sanction building plan/regularize unauthorized construction upon accepting fine.

The Municipality is directed to take steps against any deviation that has been made at the time of making construction.

Steps shall be taken in the matter in accordance with law at the earliest.

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.)