

Ct. 24
Item No.17
06.07.2023
(Suvendu)

WPA 8774 OF 2023

Subrata Goswami
Vs.
The Kamarhati Municipality & Ors.

Mr. Pratyush Patwari
.....for the petitioners

Mr. Sankha Subhra Ray
... for the Kamarhati Municipality

Mr. M. Rahaman
...for the respondent no.4

The affidavit of service filed on behalf of the petitioner is taken on record.

The petitioner complains of construction of a shed in the first floor roof of the subject premises at the instance of the private respondent no.4 without obtaining any sanction from the Municipality.

The petitioner happens to be the brother of the respondent no.4. He does not reside at the said premises. A Partition Suit was filed by the petitioner against his brother, respondent no. 4 but the said Suit stood dismissed for default.

The petitioner alleges that the respondent no. 4 has inducted the respondent no. 5 and is exploiting the rooms in the ground floor for commercial

purpose and earning money. It has been submitted that no permission has been obtained from the Kamarhati Municipality for change of use of the subject premises. Further allegation is that the entire construction including the ground and the first floor has been made without obtaining any sanctioned plan from the Municipality.

Prayer has been made for a direction upon the Municipality to consider the objection filed by the petitioner against unauthorized use of the subject property and unauthorized construction without any sanctioned plan.

The allegation of the petitioner is denied by the learned advocate representing the private respondent no. 4. It has been submitted that the ground and the first floor were constructed after obtaining sanction from the Municipality way back in the year 1973. The shed on the roof of the first floor has been constructed only for protecting the roof from sun and rain.

Learned advocate appearing on behalf of the Municipality submits that no permission is required only for construction of the shed for the purpose of protection of the roof.

Upon hearing the submissions made on behalf of the parties and upon perusal of the photographs of

the subject structure produced before this Court, the allegation of unauthorized construction remains unsubstantiated.

As regards change of use of the rooms of the subject structure, it will be open for the petitioner to file appropriate objection before the concerned Municipal authority.

In the event such an objection is filed, the Municipality shall consider the same in accordance with law after giving reasonable opportunity of hearing to all the necessary parties.

The Municipality, however, will not enter into or decide any private dispute in between the parties.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)