

Item No.236

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

27.09.2023
Ct-24

WPA 8857 of 2023
Sri Amar Bhattacharya
v.
The State of West Bengal & Ors.
with
CAN 1 of 2023

Mr. Siddheswar Chandra
... for the petitioner.

Mr. Arunava Banerjee
Sk. Qereeb
... for the Municipality.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for the State.

An application for addition of party has been filed by the petitioner seeking addition of the person who has purchased the property. Copy of the application along with the writ petition was served upon the proposed respondent but the envelope has returned unserved with the postal endorsement 'Door locked/Left'.

Affidavit-of-service filed in Court today is taken on record. However, the envelope is opened and the copy of the writ petition is returned to the learned advocate for the petitioner retaining only the envelope showing the remark of the postal authority.

For proper adjudication of the instant lis, the proposed respondent Sri Tapas Dey is added as respondent no. 9 in the writ petition.

None appears on behalf of the respondent nos. 8 & 9.

The allegation of the petitioner is that unauthorized construction is being made over the undivided property. It appears that a title suit in connection with the same property is pending consideration before the learned Court below.

Learned advocate representing the Municipality has filed a report before this Court wherefrom it appears that the Municipality had sanctioned plan for raising construction at the said premises under the Pradhan Mantri Awas Yojana, being a Government project.

As it appears that the construction is being made pursuant to the scheme of the Government duly sanctioned by the Municipality, accordingly, the same cannot be said to be unauthorized at this stage.

The Municipality is directed to cause a spot inspection to ascertain the nature and extent of construction upon prior notice to all the necessary parties at the earliest but positively within a period of three weeks and forward the inspection report to all the parties immediately thereafter.

If it transpires that construction has been made in deviation of the plan sanctioned, then necessary steps shall be taken to deal with the same in accordance with law.

As regards the status and the right of the private respondents to raise construction over undivided property, it will be open for the petitioner to raise this issue before the learned forum where the civil suit is pending.

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.

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(Amrita Sinha, J.)