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Ct No
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AGM

12.07
2023

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

WPA 9172 of 2023

**Sri Aritro Ghosal
Vs
The State of West Bengal & Ors.**

Mr. Susovan Sengupta
Mr. Sagar Bandopadhyay
Mr. Monkesh Mondal
Mr. Supriyo Kr. Roy
Mr. Tamal Banerjee
Ms. Puja Rajbhar

... For the Petitioner.

Mr. Supratim Dhar
Mr. Dhananjoy Nayak
Mr. Sourya Mukherjee

... For the respondent no.7.

Mr. Mir Anuruzzaman

... For the Rajpur Sonarpur Municipality.

Affidavit-of-service filed in Court today be kept with the records.

The petitioner claims to be the constituted attorney in respect of a debattor property. The petitioner alleges that the property in question was recorded in favour of the debattor estate. The private respondent has obtained sanctioned plan for raising construction over the said debattor property by practicing misrepresentation and fraud.

From the documents annexed to the writ petition, it appears that the Rajpur Sonarpur Municipality by a communication dated 14th of June, 2022 made under the Right to Information Act disclosed that plan was sanctioned for raising construction in respect of plot numbers mentioned in the said communication in the year 2017.

The petitioner contends that though plan was sanctioned on 2017, construction has started very recently and the Municipality ought to look into the issue

of obtaining sanctioned plan by practicing misrepresentation and fraud.

The petitioner claims to have filed objection before the Municipality highlighting the issue of illegal construction over the debottor property.

Learned advocate representing the private respondent, submits upon instruction that, there are valid plans pursuant to which property was transferred in favour of the private respondent. Construction is being carried on strictly in accordance with the plan sanctioned by the Municipality. It is denied that any misrepresentation or fraud was practiced at the time of obtaining the sanctioned plan.

Learned advocate representing the Municipality submits that in view of the sale, the title of the property has transferred. The present owners have not been impleaded as parties in the instant writ petition.

On a perusal of the objection filed before the Municipality it appears that there is no allegation of sanction of building plan by practicing misrepresentation and fraud.

The submission of the petitioner that plan was obtained upon practicing misrepresentation and fraud is not evident either from the averments made in the writ petition or from the objection filed before the Municipality.

The petitioner has averred in the writ petition that certain sale took place in respect of plot in question starting from the year 1991, 2006 and 2008. It has been averred that a development agreement was entered in the year 2013.

As it appears that till date there is no representation before the Municipality alleging fraud and misrepresentation at the time of sanctioning the building plan, accordingly, the relief sought for by the petitioner restraining the private respondents from making construction in accordance with the sanctioned plan cannot be accepted.

It will be open for the petitioner to raise appropriate

objection before the Municipality giving details of the fraud or misrepresentation, if any.

In the event such representation is made, the same shall be taken up for consideration in accordance with law upon giving a reasonable opportunity of hearing to all the necessary parties for production of documents in support of their claim.

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

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.)