

May 4, 2023
Sl. No.5
Court No.19
s.biswas

WPA 10077 of 2023

Deba Prasad Jana

vs.

The State of West Bengal and others

Mr. Biswajit Manna

Mr. Soumya Basu Roy Chowdhuri

... for the petitioner

Mr. Malay Singh

Mr. Bibekananda Tripathi

... for the State

Ms. Mekhla Sinha

... for the Howrah Zilla Parishad

Mr. Saikat Roy Chowdhury

Mr. Aritra Ghosh

... for the respondent no.12

Affidavit of service filed by the petitioner is taken on record.

The petitioner alleges that the respondent No.12 was trying to raise an additional floor on an existing one storeyed building on plot no.517 of Mouza-Nimabalia.

According to the petitioner, the said construction was without any sanction from the concerned permission granting authority and also in violation of building rules as adequate side spaces had not been kept vacant.

The fact that there was an existing structure on the land in question, is not in doubt. As per the deed annexed to the writ petition, the existing structure on plot no;517 has been mentioned. The fact that the petitioner was the vendor of the respondent no.12 and had sold the property with the existing structure is clearly evident from the deeds.

The allegation that a further floor was being constructed in violation of law and in contravention of rules, needs to be determined. The petitioner may approach the permission granting authority. The latest circulars and the amended laws shall be taken into account, when such application is filed. The matter must be decided by the permission granting authority empowered by the amended laws and notifications, to decide such issue, even if the area is under Kolkata Metropolitan Development Authority.

In case, the petitioner approaches the appropriate authority, empowered by the amended laws to decide the issue, the permission granting authority upon causing an inspection in the presence of all the parties, upon taking into account the conversion of the land and upon hearing the respective parties, shall pass necessary orders.

Needless to mention, if any unauthorised construction is detected, the persons responsible for such construction will be directed to rectify the same. If such rectification is not done, necessary steps shall be taken in accordance with law for demolition of the unauthorized portion.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The Court has not gone into the merits of the allegations levelled against the respondents.

Since no affidavit-in-opposition has been called for, the allegations against the respondent no.12 are deemed to be denied.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of server copy of this order.

(Shampa Sarkar, J.)