

05.06.2023

Item No.3

Ct. No.1

PG/KS

W.P.A.(P) 210 of 2023

Bapi Bag & Ors.

Vs.

The District Magistrate, Howrah & Ors.

Mr. Saheb Sadhukhan

Ms. Komal Shaw.....for the petitioners

Mr. Amitesh Banerjee, Sr. Adv.

Mr. Nilotpal Chatterjee

Mr. Tarak Karan

.....for the State

Mr. Sukanta Chakraborty

Mr. Malay Mukherjee

Mr. Anindya Halder.....for the respondent no. 9

Mr. Soumya Majumdar

Mr. Faidur Rahaman Molla

Ms. Suparna Dasfor the respondent no. 8

Mr. Kallol Basu

Mr. Nilanjan Pal.....for the respondent no. 10

1. By this writ petition, styled as a public interest litigation, the petitioners seek for consideration of their representation submitted to the 8th respondent alleging that the construction said to be put up by the respondents 9 to 11 are illegal and that the panchayat had no jurisdiction to grant any permission for construction as the classification of the land in question is a water body.

2. If such is the allegation, the appropriate authority, who has to look into the matter is the Additional District Magistrate (Land Reform), Howrah, the 2nd respondent in the writ petition. However, we find that no representation has been submitted to the said respondent.
3. The learned advocates appearing for the private respondents would submit that there are three plot numbers and it is not clear from the writ petition as to whether there is any allegation against other plot numbers except Dag No.6.
4. It is also submitted by the learned advocates for the private respondents that if panchayat is the appropriate authority to grant sanction of building plan, it is always open to the said authority to review its own decision.
5. In our view, considering the allegation that the classification of the land is alleged to be a water body, then it is but appropriate that the 2nd respondent takes a decision in the matter. Therefore, we dispose of this writ petition by directing the petitioners to submit a fresh representation to the 2nd respondent along with copy of this order and enclose all documents in support of their claim.
6. On receipt of the representation, the 2nd respondent shall issue notice to the private

respondents viz. 8th respondent/panchayat as well as the respondent nos. 9, 10 and 11 and all such persons, who may be interested in the matter and after hearing all the parties, conduct a site inspection and also after measurement of the property, appropriate orders be passed on merits and in accordance with law.

7. This direction be complied with within a period of six weeks from the date of receipt of the representation directed to be submitted.
8. Since the writ petition is disposed of without calling for any affidavit from the respondents, we make it clear that we have not gone into the correctness of the allegation made in the writ petition and it is for the 2nd respondent to take a decision on merits and in accordance with law.
9. No order as to costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities..

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)