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28.07.2023
AGM

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

W.P.A 10695 of 2023

**Rabindra Nath Sikdar
-versus
The State of West Bengal & Ors.**

**Mr. Swarup Banerjee,
Mr. Sajol Kumar Ghosh,
Mr. Ganesh Banerjee.
...For the Petitioner.**

**Mr. Tirthankar Dey,
Mr. Arka Kumar Nag.
...For BMC.**

The structure at R.S. plot no. 3544, R.S. khatian no. 607, J.L. no. 17, Mouza Krishnapur, Ward No. 25, Paul Para, Krishnapur, Kolkata-700102 under the jurisdiction of Bidhannagar Municipal Corporation is suffering an order of demolition. The petitioner being the developer of the structure is aggrieved by the same.

The order of demolition dated 7th February, 2023 which was passed in compliance of the direction passed by this Court in WPA 11976 of 2021 ((Joydeb Halder – vs- State of West Bengal & Ors) clearly mentions that an inspection was carried out at the subject plot when it was revealed that the alleged building is a six storied building. Structural framework is completed upon 5th floor and partial brick works were carried out. Neither any sanctioned building plan nor any other documents in respect of the alleged building was produced during inspection as asked for.

The petitioner being the developer and the owner of the subject premises were given repeated

opportunities of hearing. Both failed to produce any document in support of the construction made.

A Completion Certificate is annexed with the writ petition in support of the submission that a plan was sanctioned on 27th February, 2014 and construction of the G+6 storied residential building was complete by July, 2014.

A copy of the alleged building plan was produced in Court.

The petitioner contends that though the petitioner possessed all documents in support of the construction but the Corporation did not permit the petitioner to place them on record.

Learned advocate representing the Bidhannagar Municipal Corporation relies upon the report filed by way of affidavit and submits that there is no document in support of the construction made.

The details of the plot number, holding number, khatian number and the ward number as mentioned in the occupancy/completion certificate differs from the ones mentioned in the development agreement.

It has been submitted that a G+6 storied residential building could not have been practically completed within a period of five months.

After hearing the parties and upon perusal of the documents placed the Court is convinced that the structure that has been constructed is not in accordance with any sanctioned plan as claimed.

For the purpose of dispelling all doubts from the mind of the petitioner and for ends of justice, the Corporation is directed to permit the petitioner to place the plan, the development agreement and the Completion Certificate before the Executive Engineer (Building) to ascertain the genuinity of the documents relied upon by the petitioner.

An opportunity of hearing be given to the owner, developer, complainant and flat owners of the subject premises.

After perusal of all documents and after hearing the parties, if it appears that the documents produced are not in support of the construction made, then necessary consequential steps shall be taken in the matter for demolition of the unauthorised construction in accordance with law.

The aforesaid exercise shall be concluded at the earliest but positively within a period of eight weeks from the date of communication of this order. Till such time a fresh order is passed, the Corporation will not take any steps to proceed any further with the order of demolition dated 7th February, 2023.

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.)