

Item No.07

18.12.2023
Ct-24
AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16566 of 2023

Smt. Sandhya Saha
v.
The Bidhannagar Municipal Corporation & Ors.

Mr. Sunny Nandi
Mr. Tamal Singha Roy
Mr. Krishnendu Bhadra
... for the petitioner.

Mr. Anil Kumar Chatterjee
Mr. Dinesh Pani
... For the respondent.

Mr. Sirsanya Bandopadhyay
Mr. Tirthankar Dey
... For the BMC.

The petitioner is aggrieved by the order of demolition dated 21st June, 2023 passed by the Commissioner, BMC.

The Commissioner has opined that the petitioner is guilty of making unauthorised construction without a valid sanctioned plan. The building plan which was produced by the petitioner was found to be not genuine.

The petitioner submits that along with the building plan, the petitioner relied upon the certificate of occupancy issued by the Rajarhat Gopalpur Municipality on 12th September, 2003. The Corporation did not take into consideration the occupation certificate and passed order only relying upon the building sanctioned plan produced by the petitioner.

Learned advocate for the Corporation submits that had the petitioner produced the occupancy certificate, the same would have certainly been reflected in the order of the Commissioner. As there is no reflection of the occupancy certificate, it has to be taken that the same was not produced before the Corporation. The petitioner was provided ample opportunity to produce and rely upon all documents in support of the construction made. As the petitioner failed to produce the required documents, the Commissioner concluded that the structure is an unauthorised one.

It has been submitted by the petitioner that she is residing at the subject premises for a considerable period of time. Demolition of the structure without considering all documents will cause irreparable injury to her.

In view of such submission, the Commissioner is directed to permit one more opportunity to the petitioner to produce documents in support of the construction.

The petitioner will be obliged to produce all documents in her custody in support of the construction made. If all documents are not produced before the Commissioner, then the Commissioner will be entitled to pass an order in accordance with law relying upon the documents which will be available on record.

The Commissioner shall also take note of the fact that the plan in question was issued by the erstwhile Rajarhat Gopalpur Municipality which subsequently merged with the BMC.

The Commissioner is directed to verify the records and thereafter pass a reasoned order in the matter.

Steps shall be taken at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The petitioner as well as the other necessary parties shall be provided reasonable opportunity of

hearing prior to passing the final order. Till such time the Commissioner takes a decision in the matter, the impugned order dated 21st June, 2023 is directed to keep in abeyance.

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.)