

Item No.17

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.11.2023
Ct-24

WPA 17346 of 2023
Arun Kumar Singh

v.

The State of West Bengal & Ors.

Ms. Shebatee Datta
Ms. Babita Dey
... for the petitioner.

Mr. Chandan Kumar Mandal
... for the State.

Mr. Rajdeep Mantha
Mr. Rudranil Ghosh
... for the respondent Nos. 5 & 6.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
... for the Bally Municipality.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents at holding No. 4, Hari Charan Banerjee Road, P.O.-Belurmath, P.S.-Belur, District-Howrah, Ward No. 24.

The petitioner alleges that the private respondents relying on a sanctioned plan for raising four stories have raised seven stories in the front and eight stories in the rear side. In plain words, three additional floors have been constructed in the front side of the premises and four additional floors constructed at the back side without obtaining any sanction from the Bally Municipality.

Complaint was lodged before the Bally Municipality but the same is yet to be considered and disposed of.

Learned advocate representing the private respondents submits that a civil suit is pending in between the parties before the learned Court below. An order of injunction has been passed restraining the private respondents from alienating the garage space.

Learned advocate representing Bally Municipality submits, upon instruction that, an inspection was conducted and it was detected that G+8 storied building has already been erected relying on sanction for construction of only G+4 storied building. The RCC structural work in all floors and brick work upto the 8th floor is complete. The mandatory side open spaces have not been left. There are major horizontal and vertical deviations. Bally Municipality has already issued a stop construction notice in March 2022.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Bally Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and

communicate the same to all the necessary parties including the petitioner immediately thereafter.

A spot inspection upon prior notice to all the necessary parties shall be conducted by the Bally Municipality to ascertain the exact nature and extent of the unauthorized construction.

In the event, the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The learned advocate for the petitioner is directed to forward the copy of the representation dated July 7, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

As massive unauthorized construction has been detected by the Bally Municipality, accordingly, the Officer-in-Charge, Belur Police Station is directed to keep strict vigil over the property and ensure that

construction in any manner whatsoever is not carried out at the subject premises.

The respondent nos. 5 & 6 are restrained from transferring/alienating or handing over possession of the 5th, 6th, 7th & 8th floors of the subject premises till the matter is final decided by the Bally Municipality.

Instructions forwarded by the Bally Municipality are retained with the record.

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.

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(Amrita Sinha, J.)