

Item No 29.03
07 2023
Ct No 24
AGM

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

WPA 16523 of 2019

**Mr. Nani Gopal Saha
Vs
State of West Bengal & Ors.**

Mr. Soumojit Sen, ... For the petitioner.

Mr. Sibnath Ganguly, ... For the Private Respondent.

Supplementary affidavit and affidavit-of-service filed in Court today be retained with the records.

The petitioner alleges illegal and unauthorised construction at 72/2, Deshbandhu Road (West), Post Office- Alambazar, Kolkata- 700 035, P.S. Baranagar under jurisdiction of Baranagar Municipality.

The petitioner complains that the objection filed before the Municipality was not taken into consideration.

Learned advocate representing the private respondent submits, upon instruction that, construction has been made strictly in accordance with the plan sanctioned by the Municipality. The construction is long over and most of the flats have been transferred in favour of the prospective buyers.

It has been submitted that the primary allegation of the petitioner is encroachment. The issue of encroachment cannot be decided by the Municipality. Prayer has been made for dismissal of the writ petition.

On a perusal of the objection allegedly filed before

the Municipality seeking relief, it appears that the details of the unauthorised construction are not mentioned.

Apart from a bald statement that the private respondent is carrying on illegal and unauthorised construction, there is no detail given with regard to the construction made.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to file appropriate objection before the Municipality highlighting the illegalities allegedly committed by the private respondent at the time of making construction.

In the event such representation is made, the same shall be taken into consideration by the Municipality in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties.

A reasoned order shall be passed and communicated to all the parties.

It is made clear that the Municipality shall not enter into any issue of encroachment or private disputes amongst the parties.

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.)