

29
11.12.2023
Court No. 24
AGM

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

W.P.A 17609 of 2023

**Sri Ram Prakash Khem @ Ram Prabhas Khem &
Ors.**

-versus

The State of West Bengal & Ors.

Mr. Rachit Lakmani.

Mr. Lokesh Sharma.

Mr. Rikung Berlia.

...For the Petitioners.

Mr. Rajarshi Basu.

Mr. Subhendu Sen Gupta.

... For the State.

The petitioners complain of illegal and unauthorised construction over a portion of R.S. Dag No. 1267 corresponding to L.R. Dag No. 2101, R.S. Khatian No. 387, Mouza- Hariharpur, J. L. No. 40 within the jurisdiction of Barasat Municipality.

The petitioners claim to be joint owners of the land in question. The private respondents are members of a local club.

Allegation is that the private respondents, without any consent or permission from the petitioners and without obtaining any sanction from the Barasat Municipality, raised construction of a room at the subject premises.

The petitioners filed a civil suit before the learned Civil Judge and an order of injunction has been passed.

Simultaneously, the petitioners raised complaint before the Barasat Municipality but the same is alleged to be kept pending.

The petitioners have produced photographs before this Court to show the speed at which the construction work is going on. At the time of filing the writ petition, the construction was upto the plinth level and by today, a room stands thereon.

None represents either the Barasat Municipality or the private respondents.

Affidavit-of-service filed in Court today be kept with the records.

In view of the order that I propose to pass, none of the non-appearing respondents will be prejudiced if the writ petition is disposed of in the following manner:

The Barasat Municipality is directed to consider and decide the objection filed by the petitioner on July 6th, 2023 in accordance with law after giving reasonable opportunity of hearing to all the necessary parties by passing a reasoned order at the earliest but positively within a period of eight weeks from the date of communication of this order.

A spot inspection shall be conducted to ascertain the nature and extent of 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 petitioner is directed to forward a copy of the representation dated 6th July, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Pending consideration of the representation, the Barasat Municipality shall ensure that no unauthorised construction comes up at the subject premises at the behest of any of 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.)