

Item No.28

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.05.2023
Ct-24

WPA 3775 of 2023
Sandhya Naskar & Anr.

v.

The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
Ms. Poulami Dutta
Mr. Aslam Parvez
... for the petitioners.

Mr. Malay Singh
Ms. Neelam Singh
... for the State.

Mr. Uttam Kumar De
... for the Municipality.

Mr. Rwitendra Banerjee
Mr. Sandip Kundu
Mr. Devdutta Pathak
... for the respondent nos. 11 & 12.

The petitioners complain of illegal and unauthorized construction being raised by the private respondents without obtaining any sanction from the Municipality and without converting the classification of the land in question.

According to the petitioners the land where the construction is being made is still recorded as agricultural land and the private respondents have constructed G+5 storied building without obtaining a proper sanctioned plan.

The aforesaid contention of the petitioners is denied by the private respondents. A photocopy of the sanctioned plan issued in favour of the private respondents has been produced in Court. The order of conversion passed by the office of the BL & LRO, Rampurhat-1, Birbhum has also been produced before this Court.

It has been submitted that after obtaining the sanctioned plan, only the excavation work has been done. No construction has been started as yet.

Learned advocate for the Municipality has obtained instruction from the Chairman in April 2023 mentioning that the Municipality sanctioned building plan for raising residential G+3 storied building in favour of the private respondents in March 2023. At present only the basement work has been made.

From the submissions made on behalf of all the parties and upon perusal of the materials on record it appears that the allegation raised by the petitioners is absolutely false. All incorrect averments and submissions have been made in the writ petition. The petitioners have filed the writ petition on wild allegations without ascertaining the proper facts. The writ petition is an absolute mala fide proceeding liable to be dismissed.

The private respondents do have a sanctioned plan for raising construction and also have the necessary order for conversion of the agricultural plot of land to bastu land where construction is permissible. The construction in question is yet to start and the work in the basement level is going on.

In view of the above, no relief can be granted to the petitioners in the instant writ petition. The same stands dismissed with costs assessed at Rs. 5,000/- (Five Thousand only).

The costs shall be deposited in the office of the High Court Legal Services Authority by May 19, 2023.

Though, the matter has already been dismissed but the same will appear in the list on June 12, 2023 only for ascertaining whether the cost has been deposited or not.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

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(Amrita Sinha, J.)