

Court No. 24

WPA 19517 of 2023

12.12.2023

Malay Dholay & Anr.

(AD 31)

Vs.

The Baidyabati Municipality & Ors.

(S. Banerjee)

Mr. Sabyasachi Mukherjee

Mr. Bibek Dey

Mr. Mukesh Khanna

Syed Neaz Ahmed

... for the petitioners

Mr. Jyoti Prakash Chatterjee

Ms. Kalpita Paul

... for the State

Mr. Tanmay Chowdhury

Ms. Ritoprita Ghosh

... for the respondent nos. 9 to 11

The petitioners complain of illegal and unauthorized construction at the behest of the private respondents at Mouza- Dirghangi, LR Dag No. 2269(P), RS Dag No. 1818(P), Khatian No. 5883, holding no. 438(208), S. S. Bose Sarani, Post Office Baidyabati, Ward No. 17 under the Baidyabati Municipality.

On receipt of the complaint made by the petitioners alleging illegal construction, the Baidyabati Municipality issued a stop-work notice to the persons responsible for making construction, but thereafter did not proceed any further to deal with the allegation made by the petitioners.

Learned advocate representing the private respondents submits, upon instruction that, the construction has been made in accordance with the plan sanctioned.

No one represents the Municipality.

The affidavit of service filed in Court today is taken on record.

It appears from the submission made on behalf of the parties and on perusal of the materials on record that though the Municipality issued a notice to stop construction on receipt of the complaint filed by the petitioners, but thereafter did not take any step to ascertain the genuinity of the submission of the petitioner. The Municipality ought to have inspected the property to ascertain as to whether any unauthorized construction has been made or not.

As it appears that the representation of the petitioners 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 respondent no. 1 Baidyabati Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after

giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners immediately thereafter.

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 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 23rd March, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.)