

12. 12.06.2023
bd. Ct.15

W.P.A. 19759 of 2014

Smt. Sandhya Dey & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Amal Kumar Mukherjee

Mr. S. Basu ... for the petitioners.

Mr. Aman Gupta

Mr. Ishan Bhattacharya ... for the South
Dumdum Municipality.

Mr. Goutam Lahiri

Mr. Nayan Chakraborty

Ms. Sana Parveen ... for the private respondents

The writ petition is heard in presence of the learned advocates representing the petitioners, South Dum Dum Municipality and respondent nos. 5(i) and 5(iii).

Learned advocate representing the petitioners submits that for implementation of the order dated 25th July, 2012 passed by the concerned authority of South Dum Dum Municipality pursuant to the order passed by the coordinate Bench on the writ petition being WPA 18631 of 2011 the present writ petition was instituted.

On perusal of the said order dated 25th July, 2012 it appears that the concerned authority of the South Dum Dum Municipality decided that 27 ft. balcony which was on the side of the premises of the petitioners was unauthorised which was constructed by the private respondents and directed the private respondents to demolish the same. In the same breath it has also been observed in the

said order dated 25th July, 2012 that the private respondents shall be at liberty to take steps for regularising or sanctioning the building plan.

Learned advocates representing the petitioners and private respondents have jointly submitted that pursuant to the order dated 25th July, 2012 said 27ft.balcony has been demolished by the private respondents.

However, from the submissions made by the parties to this writ petition it appears that pursuant to the leave granted by the concerned authority of the Municipality as contained in the order dated 25th July, 2012 the private respondents have approached the municipality for regularising or sanctioning of building plan and according to the private respondents such plan has been accorded by the concerned authority of the municipality which prompted them to take steps as per sanctioned plan.

Mr. Mukherjee, learned advocate, representing the petitioners submits that such steps taken by the municipality is not tenable since after making construction on post facto basis sanctioned plan ought not to have been accorded.

The aforesaid grievance relating to subsequent according of sanctioned plan by the municipality is not the subject matter of challenge in the present writ petition; since 27ft. balcony has already been demolished by the private respondents this Court finds that the issue involved in this writ petition has

already been resolved and accordingly the writ petition stands disposed of.

However, this order shall not preclude the petitioners to take steps against the building plan which was sanctioned pursuant to the leave granted by the municipality as contained in the order dated 25th July, 2012 by initiating proceeding in accordance with law.

All interim orders passed earlier stands vacated.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)