

04 03.08.2023
rkd Ct.15

W.P.A. 19897 of 2018

Suvasis Panja & Anr.

-vs-

State of West Bengal & Ors.

Mr. Bhudeb Chatterjee,
Mr. Rajendra Banerjee,
Ms. Somosree Saha

....for the petitioners.

Mr. Debabrata Sen,
Mr. Arun Kumar Das

....for the respondent no.7.

Mr. S. M. Hassan,
Ms. Anupama Yasmin

....for the Haldia Municipality.

The writ petition is presented, *inter alia*, questioning the steps taken by the concerned authority of Haldia Municipality in demolishing the floor which has been constructed beyond G+VI.

According to the petitioners plan has been sanctioned in favour of the respondent no.7 to construct a building up to G+V therefore whatever has been constructed beyond G+V needs to be demolished.

The learned advocates representing the Haldia Municipality as well as respondent no.7 have jointly opposed the prayer of the petitioners and they have echoed the contentions that the respondent no.7 has been permitted to construct based on a sanctioned plan whereby nod has been given to construct up to G+VI.

Therefore, according to the respondents in view of demolition of floor beyond G+VI by the concerned authority of Haldia Municipality based on order passed in Section 218 proceeding the grievance of the petitioners stands redressed.

Having heard the learned advocates representing the parties and on perusal of the materials it appear that petitioners filed writ petition being WPA 8330 of 2018 which was disposed by a coordinate Bench vide order dated 12th July, 2018 directing the concerned authority of Haldia Municipality to initiate proceeding under Section 218 of the West Bengal Municipal Act, 1993 and to conclude the same within specified time. However, it has been specifically observed in the said order dated 12th July, 2018 that the issue of extent and nature of unauthorised construction is kept open to be decided in such proceeding.

Today during course of hearing order passed in Section 218 proceeding which has been communicated by the Chairman of the Municipality vide memo dated 19th September, 2018 to the respondent no.7 is placed before this Court and the copy of the same is taken on record. Copy of Form-C which relates to building permit signed by the Vice-Chairman of the Municipality on 25th

September, 2018 is also placed before this Court which is taken on record.

On perusal of the order passed by the coordinate Bench on 12th July, 2018 as well as the aforesaid communication vide memo dated 19th September, 2018 and Form-C dated 25th September, 2018 it appears that respondent no.7 was permitted to construct up to G+VI level and in consideration of the same perhaps order was passed in Section 218 proceeding to demolish unauthorised construction of additional floor beyond G+VI.

In the present writ petition the order passed by the Municipality in Section 218 proceeding and the plan sanctioned in favour of the respondent no.7 thereby permitting the said respondent to construct G+VI storied building are not under question. Therefore, it is found that the issue which is raised at the bar is not part of the pleadings in the present writ petition.

In view of aforesaid situation no relief can be granted to the petitioner excepting directing the concerned authority of Haldia Municipality to supply copy of the order passed in Section 218 proceeding as well as sanctioned plan based on which construction has been made up to G+VI level

to the petitioner within fortnight from the date of communication of this order.

The writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)