

40
18.01.2023
d.p.

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

W.P.A 21107 of 2022

**Ashalata Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Pradip Kumar Chakraborty,
Mr. Debesh Halder,
Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee.
...For the Petitioner.**

**Mr. Shyamal Prasad Purkait,
Ms. Moumita Mondal.
...For the Municipality.**

**Ms. M. Maity
...For the Private Respondent.**

The petitioner is aggrieved by the order dated 6th September, 2022 passed by the Chairman, Diamond Harbour Municipality.

The petitioner seeks sanction of plan for construction of 1st floor at the subject premises.

From the impugned order, it appears that opportunity was given to the petitioner to produce copy of the ground floor plan which the petitioner failed to produce despite repeated opportunities.

The Municipality was of the opinion that as the ground floor was not approved, accordingly, the 1st floor plan proposal cannot be entertained.

The Chairman of the Municipality rejected the prayer of the petitioner for sanctioning the 1st floor plan.

I have heard the learned advocate appearing for the petitioner in details.

Learned advocate for the petitioner has miserably failed to produce any document in support of the construction of the ground floor of the subject premises.

It has been submitted that the construction was made when the land in question was within the jurisdiction of the Panchayat.

Though it has been submitted that the Panchayat granted permission for making construction, but there is nothing on record to show that permission for making construction was granted by the Panchayat in favour of the petitioner.

The petitioner relies upon the tax receipt in support of the construction.

The Court is of the opinion that payment of tax is not akin to sanction according to which the construction can be made.

Reference has also been made to the record of rights to show that the land is a homestead land.

The classification of the land in question has never been doubted by any party.

The land may be a homestead land but for the purpose of raising construction thereon, minimum sanction is required to be obtained, which is missing herein.

According to the petitioner, the plan alleged sanctioned by the Panchayat pursuant to which the construction was made, has been lost from her custody and complaint was lodged before the Police Station in April 2022.

The petitioner also submits that application was made for providing duplicate copy of the sanctioned plan which has not been supplied by the Municipality.

The Court is not convinced with the submissions made on behalf of the petitioner.

There is nothing on record to show that the construction was made in accordance with any permission granted by the competent authority.

The Court refrains to exercise jurisdiction in the matter.

The writ petition, accordingly, fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)