

Item No.27

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

2.01.2023
Ct-24

WPA 22354 of 2022
Malay Roy
v.
Baranagar Municipality & Ors.

Mr. Kishore Mukherjee
Mr. Sankha Subhra Ray
... for the petitioner.

Mr. Aniruddha Mitra
... for the Municipality.

Mr. Sayan Datta
Mr. Tanusree Bag
... for the respondent nos. 5,6 & 7.

The petitioner contends that the private respondent is making construction without obtaining any building sanction plan in respect of the G+4 storied building and without leaving the statutory vacant spaces.

The petitioner complains that the objection filed before the Baranagar Municipality in September 2022 has not been taken up for consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner.

The building permit issued by the Baranagar Municipality for making construction of a G+4 storied building at premises no. 32, Subhas Nagar Road, Ward No. 19 has been produced in Court.

Learned advocate representing the Municipality is not ready with instruction in the matter.

The allegation of the petitioner that construction is being made without a valid permit cannot be substantiated as the private respondent has produced the permit in Court.

As regards the non-maintenance of the statutory vacant spaces, the Board of Councillors of Baranagar Municipality is directed to consider the objection raised by the petitioner and take a decision in the matter after causing a spot inspection upon prior notice to all the necessary parties.

The report of inspection shall be served to the parties. An opportunity of hearing be given to the parties and a decision shall be taken by the Board of Councillors of the Baranagar Municipality as to whether the construction has been made by maintaining the statutory side open spaces.

A decision shall be taken at the earliest but positively within a period of eight weeks from the date of communication of a copy of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated September 1, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

The permission granted by Baranagar Municipality in favour of the private respondent is retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)