

07
13.04.2023
d.p.

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

W.P.A 23022 of 2022

**Smt. Barnali Bhattacharjee
-versus
Bidhannagar Municipal Corporation & Ors.**

**Mr. Anindya Lahiri.
Ms. Pranati Das.
...For the Petitioner.**

**Mr. Suranjan Saha.
...For the Private Respondent.**

The petitioner intends to raise construction on the 1st floor of the premises no. AE-608, Sector-I, Salt Lake City, Calcutta-700064 under the jurisdiction of the Bidhannagar Municipal Corporation.

A plan for making construction on the 1st floor of the subject premises was initially sanctioned on 14th November, 2013. The same was valid till 13th November, 2016.

As the construction could not be completed within the validity period of the plan, prayer was made for renewal of the same. The sanctioned plan stood renewed and was valid till 13th November, 2018.

The petitioner was unable to complete construction work. She filed an application on 10th November, 2018 seeking further renewal of the sanctioned plan.

A reminder was submitted by the petitioner on 11th March, 2019. There is no response from the end of the Corporation.

On the earlier date when the matter was taken up for consideration by the Court, submission was made by the learned advocate appearing for the Corporation that in the absence of signatures of all the owners of the subject property, steps cannot be taken in response to the application filed by the petitioner.

The property in question is a joint property. A civil suit between the parties in connection with the property is pending consideration before the Learned Court below.

It appears from the submissions made on behalf of the petitioner as well as the private respondent that at the time of initial sanction of the plan in favour of the petitioner, the private respondent did not put his signature. Even at the renewal stage, signature of the private respondent was not required.

Accordingly, the contention of the Corporation that the signatures of all the co-owners of the subject property will be required at the time of renewal/revalidation or grant of fresh sanction cannot be accepted.

Rule 23 of the West Bengal Municipal (Building) Rules, 2007 mentions that a sanction to erect a building according to the rules shall be valid for three years from the date on which it is sanctioned and may be renewed thereafter for a further period of two years on payment of necessary fees.

A building plan may be revalidated for a further period of five years only on fulfillment of certain conditions as mentioned in the said rule.

It appears from the documents available on record and the averments made in the writ petition that the sanctioned plan has expired. The construction work could not be completed within the initial validity period of the plan. Further two years during which the plan stood renewed have also expired. The condition required for revalidation of the said plan cannot be fulfilled by the petitioner.

The only option left at this stage is to apply for fresh sanction to raise construction.

It will be open for the petitioner to file application seeking fresh sanction of the plan.

In the event such an application is made, the Corporation shall not insist upon the signature of the other co-owner of the property as at the time of initial sanction and subsequent renewal, the signature of the co-owner was not required.

The Corporation shall take steps in the matter at the earliest on receiving the plan proposal from the petitioner.

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.)