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21.12.2023
d.p.

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

W.P.A 27013 of 2023

**M/s. Pradarshak Pvt. Ltd.
-versus
The State of West Bengal & Ors.**

**Mr. Anujit Mookherjee,
Mr. Rajdeep Mantha,
Mr. Bhupendra Gupta,
Mr. Hamidul Haque.
...For the Petitioner.**

**Mr. Rajendra Chaturvedi
...For the Municipality.**

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

The grievance of the petitioner is that the Rishra Municipality is not permitting construction despite having a valid sanction plan.

The petitioner was served with a notice of hearing issued by the Executive Officer of the Rishra Municipality advising the petitioner to attend the office of the Municipality with all relevant papers or documents with regard to the ownership of the holding, copy of the Porcha and the sanctioned building plan with the copy of the municipal tax receipt. The petitioner visited the office on the scheduled date.

An alleged meeting was conducted on 3rd July, 2023. The petitioner submits that a formal discussion took place on the said date but there was no proceeding

of the meeting recorded. The petitioner was served with a proceeding of the meeting in the month of October 2023 wherein it has been recorded that the Director of the petitioner exhibited the Porcha where it was recorded that the holding is a cinema hall and accordingly, the petitioner agreed to maintain the cinema hall as per record and without disturbing the cinema hall he would construct the mall.

It was further recorded that an undertaking would be submitted within 15 days from the meeting mentioning that if he fails to maintain the cinema hall, the sanctioned plan should be treated as cancelled.

It was further recorded that a decision was taken that the petitioner should maintain the cinema hall as it was in existence (Jayanti cinema hall) and construct the proposed mall as per sanctioned plan, failing which the sanctioned plan would be treated as cancelled.

Specific contention of the petitioner is that he was never directed to submit any undertaking as recorded in the proceeding of the minutes. There was no discussion with regard to maintaining the cinema hall, as alleged. The petitioner undertakes that the construction will be made strictly in accordance with the plan sanctioned.

Learned advocate appearing for the Municipality submits that the Municipality has admittedly not cancelled the sanctioned plan of the petitioner. No notice to stop construction work has also been issued. The plan of the petitioner was sanctioned subject to the approval of KMDA, as it is a plan near the G.T. Road.

It has been submitted that the Director of the petitioner was present and he signed the proceeding of the meeting.

Upon hearing the parties and upon perusal of materials on record, it appears that admittedly till date there is no communication from the Municipality either to stop construction work or to cancel the sanctioned plan. As long as the plan remains valid, construction can be made in accordance with the same. In the event there is any deficiency/defect in the plan, the Municipality is required to intimate the same to the petitioner so that the same can be rectified. The Municipality cannot by means of force stop the petitioner from proceeding with the construction work.

The plan is valid for a period of three years and if the construction is obstructed, then the construction may not be concluded within the validity period of the plan.

The Municipality is, accordingly, restrained from interfering with the construction work of the petitioner without availing the statutory provision.

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.)