

Item No.6

22.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4107 of 2024
Sanchita Basu & Anr.

v.
Commissioner, Bidhannagar Municipal Corporation &
Ors.

Mr. Sourojit Dasgupta
Mr. Aditya Tiwari
... for the petitioners.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Tirthankar Dey
...for BMC.

The order passed by the Commissioner, Bidhannagar Municipal Corporation dated January 24, 2024 in compliance of the direction passed by this Court in WPA 16487 of 2023 (Chandana Basu & Anr. v. The State of West Bengal & Ors.) is impugned in the instant writ petition.

The matter relates to unauthorized construction. The car parking space in the ground floor of the subject premises has been converted into flats and sold off to unsuspecting buyers. The petitioners happen to be occupying one of such flats which were constructed unauthorizedly by converting the car parking space.

The matter was heard and considered by the Corporation. Reasonable opportunity of hearing was given to the petitioners. As the petitioners failed to produce any document in support of the construction made, the Commissioner passed the order of demolition

of the unauthorized structure and directed to restore the ground floor car parking as per the sanctioned building plan.

The petitioners contend that the earlier writ petition on which the order for consideration was passed was not served upon the petitioners. The complaint which was considered by the Commissioner was also not served upon the petitioners. The petitioners are not aware of the contents of the complaint. There has been violation of the principles of natural justice in passing the order of demolition without serving the copy of the complaint upon the petitioners.

I have perused the order passed by the Commissioner.

Admittedly, the car parking space in the ground floor has been converted to residential flats by violating the sanctioned building plan. The petitioners were afforded opportunity of hearing to place their case before the Commissioner. At the hearing the petitioners were completely aware as to the action which they were defending. It is not the case that the issue of consideration was not known to the petitioners. They participated in the hearing without raising any objection because they were completely aware as to what was required from them. The petitioners do not have any document in support of the conversion of the car parking spaces to residential flats.

Had the copy of the writ petition or the complaint been served upon the petitioners earlier, there possibly would not have been any change in the impugned order that has been assailed in the present writ petition. The petitioners do not appear to have been prejudiced in any

manner whatsoever. It is not the case that the impugned order of demolition was passed behind their back and the petitioners were not made aware of the allegation which the petitioners had to defend.

The petitioners appear to have some issue with the vendor who is the complainant in the present case. If there is any private dispute or if the petitioners have any grievance against the private respondents, it will be open for the petitioners to agitate the same before the appropriate forum. The order impugned in the instant writ petition does not appear to suffer from any illegality or infirmity. Any construction that has been made in violation of the sanctioned plan is liable to be demolished and an order of demolition has been passed by the Commissioner which is liable to be implemented by the Corporation

In view of the above, the Court is not inclined to exercise jurisdiction in the matter.

The writ petition fails and is hereby dismissed.

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.)