

ML- 04.04.2024
164 Ct.15
rkd

W.P.A. 3482 of 2015

Sri Tarkeshwar Prasad @ Gupta & Ors.

-vs-

Siliguri Municipal Corporation & Ors.

Mr. Amalesh Ray,
Mr. Aman Gupta,
Mr. Ishan Bhattacharya

....for the petitioners.

Mr. Deborshi Dhar

....for the Siliguri Municipal Corporation.

Petitioners have prayed for revalidation of the plan which was sanctioned for making construction on 10th April, 2002 since in terms of Rule 23 of the West Bengal Municipal (Building) Rule, 2007 (hereinafter referred to as the “said Rules of 2007”) the Municipal Corporation is authorised to grant revalidation of sanctioned plan for a period of five years.

It has been submitted by Mr. Ray, learned advocate for the petitioners that initially the plan was sanctioned for making construction on 10th April, 2002 and in terms of the statutory provisions once the plan is sanctioned that remains valid for a period of three years. However, in terms of Rule 23 of the said Rules of 2007 the plan can be renewed for a further period of two years on completion of formalities including payment of fees. Accordingly, it is also submitted that after expiry of three years

the plan was renewed for a period of two years. Subsequently, petitioners prayed for revalidation of plan and on consideration of such prayer the period for which the plan was revalidated was from 11th May, 2011 to 9th April, 2012.

It is submitted that during this period there was certain constructions made by the petitioners which were found to be unauthorised and ultimately Corporation has demolished such unauthorised constructions. It is the contention of the petitioners that since unauthorised constructions were made when the said plan was revalidated for a period of one year the construction work was not completed and there were complications since some of the construction made by the petitioners were found to be unauthorised.

After demolition of unauthorised constructions the revalidated time got expired which required further grant of revalidation in connection with the plan dated 10th April, 2002 for a limited period which would enable the petitioners to complete construction work. In this regard an application has been made dated 6th January, 2015 to the Secretary, Siliguri Municipal Corporation. However, till date no decision has been taken by the Corporation.

Mr. Dhar, learned advocate represents Siliguri Municipal Corporation who submits that in the event the plan was revalidated for a period of five years the period for revalidation would expire in the month of May, 2016. Therefore, at this stage, the learned advocate for the Corporation has opposed the prayer of the petitioners to get the plan revalidated again.

Having considered the submissions made on behalf of the parties, it appears that Court could have accepted the submission made on behalf of the Corporation in the event for a full time of five years plan would have been revalidated with effect from 11th May, 2011. The Corporation in its turn revalidated the plan for a period of one year and said period expired on 9th April, 2012 whereas in terms of Rule 23 of the said Rules of 2007 Corporation is empowered to grant maximum period of five years by revalidating the plan.

In view of aforesaid situation and since an application has been made before the concerned authority of Siliguri Municipal Corporation, the Board of Councillors of the Corporation is directed to take decision on the application of the petitioners dated 6th January, 2015 which is at page 28 of the writ petition seeking revalidation of

sanctioned plan dated 10th April, 2002 within a period of eight weeks from the date of communication of this order and the decision to be taken shall be communicated to the petitioners within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)