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24.05.2024
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In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11862 of 2024

Smt. Aloka Kundu & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Santi Das,
Mr. R. D. Bhowmick.
...for the petitioners.

Mr. Santanu Kr. Mitra Id.SGA.,
Mr. Subhabrata Das.
...for the State.

Mr. Anijit Dey.
...for the Baranagar Municipality.

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

The petitioners complain of illegal and unauthorised construction at the behest of the private respondents. Objection filed against such unauthorised construction is alleged to be kept pending by the Baranagar Municipality.

Learned advocate representing the private respondents submits that the plan was sanctioned for construction of G+3 storied building.

Learned advocate representing the petitioners submits that the construction has been made without maintaining the mandatory side open spaces and additional floor has been constructed without any sanction. As the petitioners protested against the unauthorised construction, the persons

responsible for making construction, through the Secretary of the Ward Committee, is threatening the petitioners with dire consequences and pressurising the petitioners to withdraw the writ petition.

Learned advocate representing the Municipality is yet to receive any instruction in the matter.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.2, Baranagar Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioners immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 2nd April, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The Officer-in-Charge, Baranagar Police Station is directed to ensure that no harm is caused to the petitioners or any of their family members in the hands of either the private respondents or the Secretary of the Ward Committee.

Leave is granted to the petitioners to approach the police, in the event such threats still continue.

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.)