

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(APPELLATE SIDE)

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 12532 of 2023

Manasi Roy

vs.

State of West Bengal & Ors.

For the Petitioners

: Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das.

For the State

: Mr. Jayanta Samanta,
Mr. Manas Kumar Sadhu.

For the respondent nos,
5, 6 & 7

: Mr. Debasish Das.

Heard on

: 07.05.2024

Judgment on

: 07.05.2024

Rai Chattopadhyay, J.

1. The writ petitioner is one of the legal heirs of the erstwhile owner of the concerned property, who is aggrieved with the fact that upon the undivided share of property, sanction has been unauthorizedly granted by the respondent municipality, in violation of the statutory provision, for construction of building by the other Co-sharer.
2. The petitioner has moved the instant case on the basis of two fold grounds. Firstly, that the respondent authority has flouted the specific provision of the applicable rules to ascertain the exclusive ownership of the property owner, seeking sanction of the building plan and thus acted illegally in granting sanction thereof.

3. Thereafter, the writ petitioner has urged that, in case the sanction already granted is found to be beyond the statutory provisions, the respondent authority would have the power and responsibility under the statutory provision itself, to declare the same as cancelled.
4. Mr. Tanmoy Mukherjee, learned counsel appearing for the writ petitioner has taken this Court to a representation dated May 11, 2023 of the petitioner which she has submitted before the authority ventilating her grievance and seeking consideration thereof.
5. He has further submitted that the alleged unauthorized building has come up in violation of the mandatory statutory provisions of the vacant space to be left out.
6. He has prayed for necessary order to be passed in this writ petition.
7. Mr. Debasish Das, learned counsel is appearing for the respondent Corporation/respondent no. 2.
8. According to his submissions, the respondent authority has acted upon the duly executed sale deed in favour of the person who has sought for sanction of building that too, upon the area purchased by him, by dint of the sale deed.
9. He has claimed that since there is no illegality done by the respondent no. 2 according sanction for a building plan to a valid purchaser thereof, the writ petition may not be maintainable.
10. Heard submissions and perused the records. It appears that the entire grievance of the writ petitioner has already been ventilated before the respondent no. 2 vide a representation dated May 11, 2023, the same is yet to be considered by the authority.

11. The Court finds it proper that the same should be disposed of by the concerned authority.
12. Therefore, the Court directs the respondent no. 2 to dispose of the writ petitioner's representation dated May 11, 2023. In doing so, the respondent authority shall afford opportunity of hearing to the writ petitioner and any other person interested. An inspection be conducted, if necessary for proper disposal of petitioner's grievances.
13. The said representation must be disposed of by the authority by dint of a reasoned order.
14. The entire exercise as above, should be completed within a period of four weeks from the date of service of copy of this order.
15. It is clarified that the Court has not entered into the merits of the case and all the points are kept open to be considered by the respondent authority by disposing of the writ petitioner's representation dated May 11, 2023.
16. The writ petition No.WPA 12532 of 2023 is **disposed of**.
17. Urgent Photostat certified copy of this judgment, if applied for, be given to its parties on usual undertaking.

(Rai Chattopadhyay, J.)

D. Hira