

S/L 8
01.10.2024
Court. No. 551
Sourav

WPA 16745 of 2024

**Sudhir Kumar Ganguly & Ors.
Vs.
Baranagar Municipality & Ors.**

Mr. Sanjay Saha

...for the petitioners.

*Mr. Ayan Banerjee
Mr. Dhiman Banerjee*

...for the private respondents.

1. Affidavit-of-service as filed in Court today is taken on record.
2. By filing the instant writ petition, the writ petitioners allege illegal construction at premises no. 53/1, Maharaja Nanda Kumar Road (South), Kolkata – 700 036 under P.S. Baranagar at the instance of the private respondent nos. 6 to 15.
3. In course of hearing, learned advocate for the writ petitioners has filed a print out of the scan copy of the letter dated 22.05.2024 as written by the Executive Officer of the Baranagar Municipality addressed to the private respondents to stop the construction at the said premises since in course of inspection, it has been noticed by him that the said building is constructed without sanction/in deviation of the sanctioned plan. It is alleged further that despite issuance of such letter dated 22.05.2024, the private respondents have not stopped such illegal construction.
4. Learned advocate appearing on behalf of the Baranagar Municipality submits before this Court that he intends

to file a report in this writ petition. However, in course of his submission, he does not dispute the contents of the letter dated 22.05.2024.

5. Per contra, learned advocate for the private respondents has handed over a copy of letter dated March 20, 2024 whereby and whereunder the private respondents have made a prayer to the Chairman of the Baranagar Municipality to grant revised building plan as per the Notification No. 555/MA/O/C-4/3R-2/2022 dated July 27, 2024. It is submitted on behalf of the private respondents that the said notification empowers the Board of Councilor to regularize the minor unauthorized erection or execution of any minor work without sanction under this Rules.
6. On careful consideration of the entire materials as placed before this Court, it thus reveals that the private respondents practically admitted at least some deviation in the construction at the aforementioned premises. This Court considers that justice would be sub-served if the respondent nos. 1 to 5 are directed to come to a finding as to whether the construction which has been made by the private respondents at premises no. 53/1, Maharaja Nanda Kumar Road (South), Kolkata – 700 036 under P.S. Baranagar is at all minor in nature or not and in the event, if it is found that such deviation is not in accordance with the aforementioned notification dated July 27, 2023, the Board of Councilor of the Baranagar Municipality shall proceed with the

provision of Section 218 of the West Bengal Municipal Act, 1993 against the private respondents.

7. Before parting with, it is further directed that before coming to a logical conclusion with regard to the alleged deviation, the Board of Councilor shall give an opportunity of hearing both to the writ petitioners as well as the private respondents and, thereafter, shall pass a reasoned order positively within last day of December, 2024.
8. The respondent no. 2 is hereby directed to communicate his reasoned order both to the writ petitioners as well as to the private respondents also by the last day of December, 2024.
9. In the event, the respondent nos. 1 to 5 find that the private respondents are carrying on illegal construction without giving any adherence to their letter dated 22.05.2024, the respondent no. 2, i.e., the Chairman, Baranagar Municipality shall take up the matter with the Officer-in-Charge, Baranagar Police Station who on receipt of the written requisition from the respondent no. 2 shall take effective steps to stop the work of illegal construction at premises no. 53/1, Maharaja Nanda Kumar Road (South), Kolkata – 700 036 under P.S. Baranagar.
10. Liberty to communicate.
11. The respondent nos. 1 to 5 as well as the Officer-in-Charge of the Baranagar Police Station are directed to act on the server copy of this order.

12. With the aforementioned observations, the instant writ petition being **WPA 16745 of 2024** is disposed of.
13. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)