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03-10-2024
AKG
Ct. 15

WPA 18381 of 2024
Sudip Sarma Choudhury & Anr.
Vs.
The Principal Secretary, Department of Urban
Development & Municipal Affairs & Ors.
With
WPA 24581 of 2024
Atis Sarma Choudhury
Vs.
North Dum Dum Municipality & Ors.

Mr. Koushik Roy
...for the Petitioner
Sk. Md. Galib,
...for the State
Mr. Sandip Ghose,
Mr. Sudarsan Roy,
Mr. Debayan Ghosh
Mr. Diptarka Majumder
...for North Dum Dum Municipality
Mr. Dibashis Basu,
Mr. Sudipta Dasgupta
...for Special Officers
Mr. Srijib Chakraborty,
Ms. Oindrila Ghosal,
Mr. Wasim Akhtir Dafadar
...for Respondent Nos. 10, 11, 12 & 13 in WPA 18381/2024 and
Respondent Nos. 4 to 7 in WPA 24581/2024.
Mr. Sumitava Chakraborty,
Mr. Aditya Mondal,
Ms. Rupsa Sreemani
...for Respondent No7 in WPA 18381/2024 and
Petitioner in WPA 24581/2024.

In Re: WPA 18381 of 2024

The circumstances that prompted the petitioner to file this writ petition are undeniably unfortunate. The petitioner’s wife tragically died when a portion of the building in question collapsed on her on the fateful day of March 30, 2024. In response to this incident, the petitioner has challenged the Municipality, seeking a directive to demolish the unauthorized construction. He alleges that the developer failed to maintain the

mandatory side open space during the construction, which contributed to this tragic event. The petitioner asserts that his wife was standing on her own plot of land at the time of the incident.

By an order dated September 26, 2024, this Court appointed two learned advocates as special officers to inspect the premises and file a report.

The learned special officers have submitted their report today, indicating that the developer has maintained the required side open space in accordance with the West Bengal Municipal (Building) Rules, 2007. The report notes minor deviations at the northeast, southwest, and northwest sides, measuring approximately 0.150 meters, which, in my view, are too insignificant to warrant intervention.

The learned advocate for the petitioner, however, fervently prays for time to file exceptions to the report.

I find no justification for this prayer, as the petitioner has not demonstrated any infirmities in the report. The petitioner was present during the inspection. According to the minutes submitted by the special officers, no objections regarding the side open space were raised by the petitioner at that time. Instead, an additional concern was noted regarding the frontage of

the building, which falls outside the scope of the writ petition and merits no further consideration.

Accordingly, **WPA 18381 of 2024** is dismissed. This dismissal, however, does not preclude the petitioner from seeking compensation or any other legal relief for the death of his wife before a competent court, should he be entitled to do so.

In Re: WPA 24581 of 2024

By filing this writ petition, the petitioner seeks to regularise the unauthorised construction identified by the North Dum Dum Municipality in the building in question. This writ petition has become infructuous, as the Municipality rejected the request for regularisation by an order dated September 20, 2024, during the pendency of this writ petition.

Accordingly, **WPA 24581 of 2024** is disposed of, granting the petitioner the liberty to challenge the order dated September 20, 2024.

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

(Kausik Chanda, J.)