

05-02-2024
ct no. 24
Sl. 39
Sayandeep

WPA 18216 of 2023

Sakina Akhan @ Khatun
-Versus-
The State of West Bengal & Ors.

Mr. Syed Nasim Aejaaz
Mr. S. M. Ali Zaidi
...for the petitioner
Mr. Amal Kr. Sen
Mr. Lal Mohan Basu
.... For the State
Ms. Mekhla Sinha
Ms. Malabika Roy Dey
... for the Howrah Zilla Parishad

The petitioner is aggrieved by the order dated 3rd December, 2021 passed by the District Engineer, Howrah Zilla Parishad granting liberty to the private respondents to apply for sanction of plan for the construction already made failing which the Zilla Parishd would demolish the unauthorized construction.

The petitioner alleges that it was highly improper for the Zilla Parishad to permit the private respondent to apply for sanction plan after the construction has been raised. It has been contended that as sanction was not obtained prior to raising construction, the structure ought to have been demolished rather than granting leave to the private

respondents to obtain sanction. Prayer has been made for setting aside the order passed by the Zilla Parishad.

Learned advocate representing the private respondents submits, upon instruction that, in terms of the liberty granted by the Zilla Parishad, the private respondents obtained the sanction plan from the Zilla Parishad.

It has been submitted that the construction in question was in existence for a considerable period of time. Only the old existing RTS structure was removed and roof slab was casted.

It appears from the order impugned that the Zilla Parishad gave reasonable opportunity of hearing to both the parties and upon consideration of the facts was pleased to permit the private respondent to obtain sanction of construction made by him.

The District Engineer recorded that considering the pitied situation for ends of justice, the private respondents may be given an opportunity for applying for sanction for the work which has already been made; otherwise, his family members have to live without any roof.

The District Engineer recorded that the private respondent and his family members were possessing the room in question for the last 50 years from the time of their predecessors-in-interest. It was noticed

that the private respondents are still residing at the said rooms for generations. Keeping the facts in mind, permission was granted for obtaining post facto sanction.

The Court does not find any error on the part of the Zilla Parishad in allowing the private respondents to obtain sanction.

In view of the above, the Court is not minded to interfere with the order impugned.

Accordingly, the writ petition fails and is hereby dismissed without any order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)