

Sl.22 & A 2170
02.09.2024
Suman
Ct.No.15

WPA 23507 of 2023

Sm. Ashalata Mondal
Vs.
The State of West Bengal and Ors.

With
WPA 21374 of 2024

Nadiram Halder
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Mondal
Ms. Payel Khanra
..for the petitioners

Mr. Shyama Prosad Purkait
Ms. Moumita Mondal
..for Diamond Harbour Municipality

Mr. Avijit Sarkar
Mr. Subhajit Chowdhury
..for the State in WPA 23507 of 2023

Mr. Sabyasachi Mondal
Ms. Payel Khanra
..for respondent nos. 5 and 6 in WPA 21374 of
2024

Both the writ petitions are taken up for hearing
and disposed of by a common order.

The petitioner claims to be the owner of a one
storey building at Dag no.324, Khatian no.61, J.L.
no.144, Mouza-Ramchandrapur, Police Station-
Diamond Harbour, District – South 24 Parganas.

The petitioner, in the year 2021, made an
application before the Diamond Harbour Municipality

for sanction of a building plan for constructing an additional floor. Since the prayer of the petitioner was not considered, she filed WPA 7158 of 2022 before this Court. The said writ petition was disposed of on July 13, 2022, by a Co-ordinate Bench of this Court with a direction upon the Chairman, Diamond Harbour Municipality to consider the prayer of the petitioner for grant of sanction plan in accordance with law.

The Chairman, Diamond Harbour Municipality passed a reasoned order on September 6, 2022, thereby rejecting the prayer of the petitioner as she failed to produce any sanctioned plan in respect of the ground floor of the relevant building.

The order of the Chairman was again challenged by the petitioner by filing WPA 21107 of 2022. The said writ petition was rejected by a Co-ordinate Bench of this Court on January, 18, 2023. The order dated January 18, 2023, was unsuccessfully challenged by filing MAT 227 of 2023 before a Division Bench of this Court.

The petitioner has filed this writ petition claiming that the sanctioned plan of the ground floor, which was previously lost, has been located.

The petitioner made a representation dated March 9, 2023, before the Chairman of the Diamond Harbour Municipality to reconsider her prayer for sanction of the first floor building plan.

Since the prayer of the petitioner has not been considered, the present writ petition has been filed.

On behalf of respondent no.8, it has been submitted that the sanctioned plan annexed by the petitioner to this writ petition is not a genuine one. The petitioner acquired ownership of the relevant premises in the year 1989. Therefore, she could not have procured a sanctioned plan in the year 1980.

It has further been submitted by the learned advocate representing respondent no.8 that by the information supplied under the Right to Information Act, 2005, the relevant Panchayat has confirmed that no sanctioned plan was ever granted for the ground floor.

Learned advocate appearing for respondent no.8 has further submitted that respondent no.8 has filed WPA 21374 of 2024 alleging violation of building rules by the writ petitioner in constructing the ground floor. It has been submitted by respondent no.8 that his prayer for demolition of the unauthorised construction on the western side of the building has not yet been considered by the Municipality.

Having regard to the aforesaid facts, I am of the view that the Municipality should decide the prayer of the petitioner for sanction of the first floor afresh after taking into consideration the sanctioned plan annexed to the writ petition.

The grievance of respondent no.8 with regard to unauthorised construction on the western side of the building should also be considered by the Municipality.

I dispose of both the writ petitions with a direction upon the Diamond Harbour Municipality to consider the sanction for the first floor and the allegations of unauthorised construction on the western side of the building in accordance with law. The Municipality shall hear the petitioner as well as respondent no.8 in arriving at its decision. A reasoned order should be passed within a period of three months from the date of communication of this order.

It is made clear that this Court has not gone into the merits of the issues as raised by the parties before this Court. The Municipality shall hear the matter without being influenced by any observations or submissions recorded in this writ petition.

Accordingly, **WPA 23507 of 2023** and **WPA 21374 of 2024** are disposed of.

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.)