

224 19.02.2024
NB/AGM Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 23883 of 2023

Raju Ray
Vs.
The Tarakeshwar Municipality & Ors.

Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta,
Mr. Arpayan Mukherjee,
Mr. Swakshar Kumar Mondal,
Mr. Debashis Banerjee.
..for the petitioners.

Mr. Keshab Chandra Das,
Mr. Biplab Adak.
...for the Municipality.

The petitioner is aggrieved by the notice issued by Tarakeshwar Municipality directing stopping of work by invoking Rule 6 of the West Bengal Municipal (Building) Rules, 2007.

A plan was sanctioned in favour of the petitioner by the Municipality for raising construction over LR Dag No.806(P) on 5th February, 2021. The petitioner alleges that Rule 6 of the Building Rules could not have been invoked in May, 2023 and thereafter again in September, 2023.

It has been submitted that the stop work notice has been issued as the petitioner failed to accede to the extraneous demand raised by the Municipality.

Learned advocate representing the Municipality has obtained instruction wherefrom it appears that the petitioner, though obtained the sanctioned plan for raising construction over LR Dag No.806(P), but the petitioner has partly dismantled

the mud wall house on LR Dag No.807(P) and raised construction thereon. After receiving objection from the neighbours of the petitioner, a physical inspection was conducted. A stop work notice was issued as the petitioner failed to submit any document in support of ownership of the land at LR Dag No.807(P).

The Municipality contends that no permission was granted to the petitioner for demolishing the existing mud house. The Municipality opines that the petitioner may resume construction after the petitioner submits ownership documents in support of the land at LR Dag No.807(P) and after obtaining revised sanctioned plan.

The petitioner asserts that the petitioner is raising construction over LR Dag No.806(P) and not over LR Dag No.807(P) as claimed by the Municipality.

Rule 6 of the West Bengal Municipal (Building) Rules, 2007 mentions that if any information or documents required under the Rules, is in the opinion of the Board of Councillors, incomplete or defective, he may, within 15 working days from the date of receipt of the same, require further information or documents to be furnished. If any requisition is made under the Rules is not complied with within one month, the application for approval of the building site may be refused.

Admittedly, in the instant case, the plan was sanctioned for raising construction on 5th February, 2021. It is noticed that only after receiving complaint from the neighbours of the petitioner, the Municipality came to learn that the petitioner was making construction over a plot of land on which sanction was

not granted at all. The petitioner insists that construction is being made over the plot of land where sanction has been granted and not on the plot of land as claimed by the Municipality.

It appears from the submissions made on behalf of both the parties that there has been an issue with regard to the identification of the plot of land over which the construction is being raised, accordingly, till the plot of land is correctly identified, it will not be proper to permit the petitioner to continue with the construction work.

It will be open for the petitioner to approach the appropriate authority for identification and demarcation of his plot being LR Dag No.806(P) on which sanction has been granted for raising construction. After the land is properly identified, then the petitioner may resume the construction work.

It has been submitted by the learned advocate representing the petitioner that during the pendency of the writ petition, the sanctioned plan of the petitioner has expired.

It will be open for the petitioner to apply for extension of the validity of the sanctioned plan. The Municipality shall consider the prayer of the petitioner for extension of the sanctioned plan in accordance with law.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)