

15. 29.01.2024
bd. Ct.15

W.P.A. 25061 of 2018

Sri Lakshmikanto Banerjee

-vs-

The State of West Bengal & Ors.

Mr. Avishek Banerjee

Mr. Subharansu Banerjee ... for the petitioner.

Mr. Dipak Kumar Mukherjee

Mr. Rajib Mukherjee

Ms. Shreyasi Bhaduri ... for the Municipality.

In the writ petition challenge has been thrown to the sanctioned plan which has been accorded in favour of Smt. Ratnabali Banerjee, being respondent no. 9.

Affidavit of service was filed on previous occasion wherefrom it appears two of the private respondents have received the notice but from respondent no. 9 and 10 envelopes have returned with endorsement “unclaimed and “addressee moved” respectively.

Therefore, the writ petition is taken up in absence of representation on behalf of private respondents. However, Uttarpara-Kotrung Municipality is represented by learned advocate.

Learned advocate representing the petitioner submits that plan was sanctioned in favour of the respondent no. 9 on 19th September, 2018 which is de-hors the West Bengal Municipal (Building) Rules 2007. Attention of this Court has also been drawn to the order of a Hon’ble Division Bench dated 30th

July, 2018 whereby Uttarpara-Kotrung municipality was directed to sanction building plan in favour of the respondent no. 9 being appellant no. 1 therein strictly in accordance with law within a specified time. It is contended on behalf of the petitioner that in spite of giving such direction upon the municipality to sanction building plan strictly in accordance with law on violation of the relevant provisions of the West Bengal Municipal (Building) Rules 2007 a plan was accorded on 19th September, 2018. One demand notice has been preferred on behalf of the petitioner dated 19th November, 2018 questioning sanctioning of plan in favour of the respondent no. 9 on 19th September, 2018.

In view of the aforesaid submission made on behalf of the petitioner and taking note of pendency of the demand notice before Uttarpara-Kotrung municipality wherein according of sanctioned plan dated 19th September, 2018 in favour of respondent no. 9 has been questioned, the concerned authority of Uttarpara-Kotrung municipality is directed to take decision on the said demand notice dated 19th November, 2018 within a period of twelve (12) weeks from the date of communication of this order and to decide whether said sanctioned plan was issued in accordance with relevant Building Rules or not. Before taking decision opportunity of hearing shall be granted to the petitioner as well as respondent no. 9 or their representatives. The reasoned decision to be taken by the concerned authority of Uttarpara-Kotrung municipality shall be communicated to the parties within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

Affidavit of service filed on behalf of the petitioner today is taken on record.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)