

11.07.2024

Mithun

List – D/L

Sl. No. 163.

Ct. No. 15.

WPA 25975 of 2018

Binapani Paul @ Bina Paul

-Vs.-

The Habra Municipality & Ors.

Mr. Amal Kumar Banerjee

...for the petitioner.

Mr. Achintya Kumar Banerjee,

Ms. Indumouli Banerjee

...for the Habra Municipality.

The petitioner has alleged unauthorized construction at the behest of respondent nos.5 to 11 at plot Nos.118, 123 and 118/1029 at Ward No.13 under Habra Municipality.

Learned Advocate appearing for the petitioner submits that the relevant property is an undivided property and without a partition being effected between the parties, respondent nos.5 to 11 could not have raised any construction. It has also been submitted by the learned Advocate for the petitioner that a partition suit has been filed by the petitioner before the competent Civil Court during pendency of the writ petition.

The Municipality has filed its affidavit-in-opposition.

The relevant part of the affidavit-in-opposition read as follows:-

"From the enquiry report it has been detected that there is no unauthorized construction over the L.R. plot No.118/1029. Holding No.38/30, Ward No.13 of Habra

Municipality. There is three existing old pucca building and two building has been constructed thereon under Pradhanmantri Awas Yojana H.F.A. (House for All Scheme as per approved plan of Govt. of West Bengal. Copies of the enquiry reports along with other documents are collectively annexed hereto and marked as Annexure "R-2".

That the said construction has been constructed as per approved Model Plan under the Pradhanmantri Awas Yojana (Housing for All (Urban) prepared by the office of the Chief Engineer, Municipal Engineering Directorate, Government of West Bengal. Therefore, the municipality did not further approve/sanction the said plan. A copy of the approved Model Plan under the Pradhanmantri Awas Yojana (Housing for All (Urban) is annexed hereto and marked as annexure "R-3".

No other construction in respect of other plots as complained of in paragraph 8 of the writ petition is found."

In view of the affidavit filed by the Municipality, I am not inclined to enter into the disputes as raised by the learned Advocate appearing for the petitioner.

I dispose of this writ petition granting liberty upon the petitioner to make appropriate prayer before Civil Court in connection with the partition suit.

Accordingly, WPA 25975 of 2018 is disposed of.

Parties shall act on a server copy downloaded from the official website of this Court.

(Kausik Chanda, J.)