

11.03.2024

Sl. 34

Ct.No. 24

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27154 of 2023

Prosanta Mondal

Vs.

The State of West Bengal and ors.

Mr. Saunak Bhattacharya

Mr. Saunak Mondal

...for the petitioner

Mr. Mir Anuruzzaman

...for the Municipality

Mr. Pritam Chowdhury

Mr. Chandan Kumar Mandal

...for the State

The petitioner filed an earlier writ petition being WPA 4353 of 2022, which stood disposed of on 11th May, 2022 by directing the Rajpur Sonarpur Municipality to ensure that no construction takes place in violation of the law.

At the time of passing of the said order, the Court took note of the fact of the petitioner's allegation that the property in question is an unpartitioned one. A partition suit and a suit for declaration and injunction were also pending when the matter was decided by the Court. Out of the two pending suits, one has been dismissed for default. The petitioner is not aware of the fate of the other suit.

The petitioner submits that as the plan in question was obtained by practising

misrepresentation and fraud, accordingly, the same is liable to be cancelled.

Further prayer of the petitioner is that the construction which is being made is over an undivided property and the Municipality could not have sanctioned the building plan in favour of only one of the parties.

None represents the private respondents.

Affidavit of service filed by the petitioner is taken on record.

Learned advocate for the Municipality submits that the records of the Municipality were corrected on the basis of the records of the Block Land and Land Reforms Officer. The name of the private respondents are reflected in the official records, accordingly, plan has been sanctioned in their favour.

Upon hearing the submission made on behalf of the parties and on perusal of the materials on record it appears that a Co-ordinate Bench in the earlier writ petition took note of all the facts mentioned hereinabove and observed that mutation does not create any title in favour of either of the parties and the right, title and interest of the parties shall abide by the final decision of the suit. The Municipality was only directed to ensure that the construction does not take place in violation of the law.

Apart from the fact that one of the two pending suits has been dismissed, there is nothing new on record to be adjudicated.

The petitioner has filed a representation before the Municipality which is pending consideration.

The instant writ petition is, accordingly, disposed of by directing the Municipality to ensure that construction does not take place in violation of the plan sanctioned. If unauthorised construction is detected, necessary consequential steps shall be taken to deal with the same in accordance with law.

As regards declaration of right in respect of the undivided property, the parties will be at liberty to approach the competent court for relief.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Amrita Sinha,J.)