

ML- 11.03.2024  
151 Ct.15  
rkd

W.P.A. 29959 of 2016

Kabindra Pradhan & Anr.

-vs-

The Haldia Municipality & Ors.

Mr. Tapan Kumar Rakshit,  
Mr. Surajit Roy

....for the petitioners.

Mr. Samiran Giri

....for the respondent no.5.

Mr. S. M. Hassan,  
Ms. Asnupama Yasmin

....for the Haldia Municipality.

Mr. Ashim Kumar Ganguly,  
Ms. Sukla Das Chandra

....for the State.

Affidavit-in-opposition filed on behalf of the Municipality and affidavit-in-reply filed on behalf of the petitioners are taken on record.

In the writ petition construction made by respondent no.5 at Plot No.265 has been questioned on the ground that without obtaining any sanctioned plan from Haldia Municipality construction has been made by the said respondent no.5.

It is also stated in the complaint dated 12<sup>th</sup> September, 2016 that the construction made by the respondent no.5 was defective and same may collapse at any point of time leading to mishap. Therefore prayer has been made on behalf of the petitioners to issue mandamus directing the concerned authority of Municipality to demolish the

unauthorised construction, if necessary by initiating the proceeding under Section 218 of the West Bengal Municipal Act, 1993.

It is also submitted on behalf of the petitioners that on 29<sup>th</sup> September, 2016 notice was issued to the respondent no.5 directing her to appear before the concerned authority of the Municipality along with necessary documents and in the said notice it was stated by the Chairman that without obtaining necessary permission pucca construction was made by the respondent no.5 at Plot no.265.

Respondent no.5 and Haldia Municipality are represented by learned advocates.

During course of submission it has been submitted on behalf of the Municipality that a report has been filed in the form of affidavit affirmed on 3<sup>rd</sup> July, 2018 wherein it has been stated that in favour of the respondent no.5 plan has been sanctioned. During course of hearing building permit has also been produced issued by the Chairman of Haldia Municipality signed on 17<sup>th</sup> May, 2017 dated 18<sup>th</sup> May, 2017 in favour of one Dipak Parua, being the husband of the respondent no.5, along with building permit sanctioned plan is also annexed.

The building permit and sanctioned plan which are placed before this Court are taken on record.

Since plan has been issued in favour of the husband of the respondent no.5 this Court cannot issue mandamus directing the concerned respondent authorities to demolish the construction made by the private respondents.

In view of the steps taken by the concerned authority of the Municipality by issuing sanctioned plan in favour of the private respondents the writ petition stands dismissed.

However, this order shall not preclude the petitioners to question the plan sanctioned in favour of the husband of the respondent no.5 on 17<sup>th</sup> May, 2017, if so advised.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

**(Saugata Bhattacharyya, J.)**