

08.08.2025
Ct. No.3
Sl. No.8
akd

W. P. A. 2312 of 2025

[Umasankar Dutta Banik & Ors. -Vs- The State of West Bengal & Ors.]

Mr. Tanmoy Mukherjee
Mr. Souvik Das

... ... for the petitioners

Mr. Koushik Ray

... ... for respondent nos.2 & 3
[Khardah Municipality]

Mr. Siva Prosad Ghose

... ... for respondent nos.4 & 5

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioners have preferred the present writ petition, seeking a direction upon the respondent-Khardah Municipality to act in accordance with law and to review or revoke the completion certificate issued in respect of the building situated at Premises No. 101/64, Govt. Colony, P.O. Rahara, P.S. Khardah (at present Rahara), Dist. – 24 Parganas (North).
3. It is the case of the petitioners that their father, late Sri Jadunath Dutta Banik, was a refugee from erstwhile East Pakistan (now Bangladesh), and had taken possession of a vacant parcel of land measuring about 4 cottahs, in view of the refugee status and under his claim for rehabilitation, the Government of West Bengal, by way of a registered deed dated 20.12.1987 had formally transferred ownership of the land located at Mouza – Rahara, J.L. No. 3, R.S. No. 61, Touzi No. 184-190 comprising of C.S. Dag No. 1189 and 1190 (p), corresponding to L.R. Dag No. 3274, under LOP No. 71, recorded in L.R. Khatian No. 2473, Ward No. 9 falling within the jurisdiction of Khardah Municipality.

4. The petitioners had entered into a Development Agreement with the private respondent nos. 4 and 5 for construction of a multi-storied residential building on the said 4 cottahs of land. Pursuant thereto, the private respondent nos. 4 and 5 constructed a building and obtained a completion certificate from the respondent-Khardah Municipality. However, the grievance of the petitioners is that the private respondent nos.4 and 5, during the course of construction, exceeded the 4 cottahs land as described in the development agreement and encroached upon the adjacent portion of land, which although not formally transferred, had been in possession of their late father, and continued in their possession.

5. The petitioners contend that the private respondent nos.4 and 5 have constructed the building in violation of the sanctioned building plan, and have encroached upon the open space beyond the 4 cottahs of land, for which they had entered into a Development Agreement. They further submit that the completion certificate, which has been issued is illegal since the private respondent nos.4 and 5 had not carried out the said construction of the building in accordance with the sanctioned building plan. Being aggrieved by the same, the petitioners had made a representation dated 06.01.2024, but the same has not been acted upon.

6. Learned counsel for the private respondent nos. 4 and 5 submits that the entire construction had been carried out duly in compliance with the sanctioned building plan. He further submits that the issue of encroachment is beyond the scope of redressal by the respondent-Khardah Municipality, since the petitioners have not encroached upon any land except the 4

cottahs of land on which the private respondent nos. 4 and 5 had carried out the construction in compliance with the valid sanctioned building plan.

7. Learned counsel for the respondent–Khardah Municipality submits that the authorities are ready and willing to consider and dispose of the representation of the petitioners dated 06.01.2024.

8. In light of the above submission, learned counsel for the petitioners submits that the petitioners would be satisfied if their representation dated 06.01.2024 is considered and decided by the respondent-Municipality in a time-bound manner.

9. Accordingly, this Court directs the respondent-Khardah Municipality, to consider and decide the representation of the petitioners dated 06.01.2024 by passing a reasoned and speaking order, strictly in accordance with law, within a period of eight weeks from the date of communication of this order. Prior to the passing of such order, the said authority shall afford an opportunity of personal hearing to the petitioners as well as the private respondent nos.4 and 5.

10. With the aforesaid directions, the present writ petition is disposed of.

11. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

12. There shall be no order as to costs.

13. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)