

11.12.2025
Ct. 3
Item No.
AD 05
sayandeep

WPA 7724 of 2025

**Kamal Bandhopadhyay & ors.
Versus
The State of West Bengal & Ors.**

Mr. Kushal Chatterjee
Mr. Oishik Chatterjee

... For the petitioners

Mr. Soumyajit Bhatta

...For the respondent Nos. 2 to 6

Md. Sarwar Jahan
Ms. Tapati Sarkar

.... For the Intervener

1. The instant writ petition has been moved by the learned advocate for the petitioner with a innocuous prayer that the pending application for grant of sanction of a building plan pertaining to holding No. 172, Mouza - Panihati JL No. 10 P.S. Kharda, Khatian No. 1713 P.O. Panihati, PIN 700114 and RS plot No. 63 which has been kept pending by the municipality should be directed to be disposed of. In fact, the learned advocate for the petitioner only insisted that this Court, at this stage, considering the fact that the scrutiny of the petitioners' application for sanction has been completed, the respondents should not be permitted to sit tight on the application and an order should be passed only to the extent of directing that the decision in this

regard should be communicated by the respondents to the petitioners.

2. Ms. Sarkar, learned advocate appears for the intervener Shri Nirmal Singha, and would submit that this matter has a checkered history. According to her, the intervener claims interest in holding No. 172, Mouza - Panihati JL No. 10 P.S. Kharda, Khatian No. 1713 P.O. Panihati, PIN 700114 and RS plot No. 63. She would submit that since, the petitioners had previously attempted to carry out construction on the intervener's plot, the intervener was constrained to move this Hon'ble Court in exercise of its extraordinary writ jurisdiction in WPA 8060 of 2022. It is in connection with such petition that a Coordinate Bench of this Court by order dated 18th July, 2022 had while directing the police authorities to offer assistance to the municipality for the municipality to ensure that the unauthorised construction does not continue also directed the municipality to take note of the claim of the private respondents that the construction was raised by invoking the provision of deemed sanction under law, since, at that stage, the Municipality was already in seisin of the matter. Later once again a further writ petition being WPA 24190 of 2022 was filed by the intervener to arrest the illegal construction as the same was continuing. It is in

relation to such proceeding that the co-ordinate Bench of this Court by an order dated 18th January, 2023 was, inter alia, upon ascertaining that the building plan is yet to be sanctioned, pleased to restrain the private respondents from executing any deed of conveyance in respect of the structure which has been constructed illegally by the petitioners on subject property with a direction upon the Commissioner, Barrackpore Police Commissionerate to put a padlock at the entrance of the structure. Although, an appeal was preferred by the writ petitioners who were the private respondents in the said writ petition, the said appeal ultimately came to be disposed of by order dated 17th February, 2025 passed by the Division Bench of the Court whereby the municipality was directed to invoke the provisions of Section 218 of the West Bengal Municipal Act, 1993 and the petitioners herein were restrained from selling or transferring any property in any manner whatsoever.

3. The learned advocate for the municipality has placed before this Court the order passed by the Executive Officer, Panihati Municipality dated 10th April, 2025 passed in furtherance of the order dated 17th February, 2025, where under it was held that the prayer for sanction of the building plan made by Asit Mukherjee could not be considered and

accordingly, it was held that the G+4 storied construction made by Asit Mukherjee is illegal and direction was issued to take immediate steps for demolition of the above building. The above order and the proceedings have conveniently not been disclosed by the petitioners in the present proceedings. The learned advocate for the petitioners would, however, come up with the stand that these matters are entirely foreign to the matter at hand and does not concern the present cause of action for the petitioners to maintain the writ petition. It is also submitted that the reasoned order dated 10th April, 2024 forms subject matter of challenge before an appellate authority and a stay has also been granted.

Department

4. Having heard the learned advocates for the respective parties and noting that the intervener has certainly an interest in the cause, I am of the view that the intervener should be added as a party to the instant proceedings and accordingly, I direct the department to add the intervener, namely, Nirmal Singha, son of late Niranjana Singha of Arbindo Pally, Sukchar, Harish Chandra Dutta Road, Post Office Sukchar, Police Station Khardah, District North 24-Parganas, Kolkata - 700115 as an added party in the present writ petition. The advocate for the

intervener upon its addition shall be at liberty to file vokalatnama in the department.

5. Coming back to the case at hand, I find that the petitioner did not make any disclosure as regards the pending litigations. No disclosure had also been made by the petitioners that a demolition order concerning the self-same plot has been passed, directing demolition of the structure constructed thereon. I find that the petitioners' advocate by attempting to distinguish the other matter from the present cause has claimed that though the sanction sought for is in respect of Plot No.63 & Holding No.172 under Panihati Mouza, P.S.- Khardah, however, the present sanction is only limited to 4 kathas of land whereas the other structure in respect whereof the order of demolition has been passed relates to a different area from the present plan. According to him, the building rules do not require disclosure of any other fact and/or information in the proposed sanction plan, for reasons whereof the petition has been moved without disclosure of such fact and disclosure of the illegal construction in the self-same plot has also not been made in the sanction plan or in the writ petition. The learned advocate for the petitioner would not only argue but insist that law does not require disclosure of any additional facts and that

according to him the construction is coming up on the balance area in Holding No. 172 in respect whereof there is no construction. While responding to a query from the Court, the petitioners' advocate could not identify the structure which has been directed to be demolished on the proposed sanction plan.

6. Noting that the writ petition and the application for sanction has been filed by holding back material information and by suppression thereof by attempting to steal a march over the interveners and noting that the matter was moved in a most innocuous fashion with a prayer of consideration of the petitioners' representation, by suppression of material facts, I am of the view, in the facts noted hereinabove, the petition cannot be sustained.
7. Accordingly, the writ petition is dismissed on the ground of gross suppression of material facts upon payment of costs assessed at Rs. 5,00,000/- to be paid by the petitioners to the respondents.
8. All parties shall act on the basis of server copy of this order duly downloaded from the Official Website of this Court.

(Raja Basu Chowdhury, J.)