

19.05.2025
Sl. No.28
Ct.3/ tkm

W.P.A. 22466 of 2024

Rita Chowdhury & Ors.
Vs.
State of WEst Bengal & Ors.

Mr. Sukanta Chakraborty
Ms. A Halder

... ... for the petitioners

Ms. Munmujn Ganguly
Mr. Sayan Ganguly

... ... for the State

Mr. Sandip Ghose
Mr. Sudarsan Roy
Ms. I Roy
Mr. Debayan Ghosh
Mr. Aziz Amin
Mr.D Majumder

... ... for North Dum Dum Municipality

1. Affidavit of service is taken on record.
2. The Petitioner has preferred the present writ petition being aggrieved by the order dated 20.08.2024 passed by the Chairman, North Dum Dum Municipality, whereby the appeal preferred by the Petitioner under Section 208 of the West Bengal Municipal Act, 1993 was rejected. By the said order, the Chairman affirmed the earlier order dated 29.07.2024 issued by the Respondent Municipality, whereby the Petitioner's application for sanction of a building plan for construction of a G+3 storied building at the premises bearing Holding No. 54 (59),

Kalabagan, Mouza Gouripur, Ward No. 15, Kolkata, was rejected.

3. The case of the Petitioners is that they are the absolute owners of the aforesaid premises. On 07.07.2015, the Petitioners initially submitted an application seeking sanction of a building plan for construction of a multi-storied building at the said premises. In response, the Respondent Municipality raised a demand towards building sanction fees. The Petitioners challenged the said demand by filing Writ Petition No. WP 27875(W) of 2015.
4. A Co-ordinate Bench of this Court, vide order dated 10.03.2017, disposed of the said writ petition by directing the matter to be reconsidered by the Respondent Municipality. Thereafter, the Petitioners filed a contempt application alleging non-compliance of the order dated 10.03.2017.
5. The said contempt petition was disposed of by this Court vide order dated 15.12.2017, passed in the absence of the Petitioners' counsel.
6. Aggrieved thereby, the Petitioners filed a review petition against the order dated 15.12.2017. This Court, vide order dated 19.03.2021, permitted the Petitioners to file objections to the original demand raised towards building sanction fees.

7. Pursuant thereto, the Petitioners submitted their objections. However, the Board of Councilors of the Respondent Municipality informed the Petitioners that, due to a change in the applicable rules, their objections could not be considered, and accordingly, the Petitioners were requested to submit a fresh application for building plan sanction.
8. The Petitioners challenged the said decision by filing Writ Petition No. WPA 12880 of 2021. Without prejudice to their rights, the Petitioners submitted a fresh application on 16.02.2024 for sanction of a G+3 storied building in accordance with the prevailing rules. Further, in compliance with Section 49 of the West Bengal Building Rules, 2007, the Petitioners executed a gift deed dated 21.12.2023 in favour of the Respondent Municipality, gifting a strip of land measuring 2.5 meters across the entire frontage of the property. Additionally, the Petitioners obtained the requisite No Objection Certificate from the Airport Authority of India on 04.03.2024.
9. Despite repeated follow-ups, the Respondents did not apprise the Petitioners of the status of their application. Eventually, the Petitioners received a communication dated 29.07.2024, whereby the

Respondent Municipality rejected the building plan application, citing the following reasons:

- a) During inspection of the land was found not demarcated properly;*
- b) The land donated in favour of the Municipality for widening of the road has not been demarcated and no display board of gifting of the strip of land was found;*
- c) Further the original Deed of Gift has not yet been received by the municipality as informed by the concerned municipal department;*
- d) When the LBS of this plan was asked about the present observation, he verbally stated that the owner advised him not to proceed with the plan*
- e) Accordingly, the plan was rejected and you were requested to rectify the observations.*

10. Being aggrieved by the said rejection, the petitioners had preferred an appeal before the Chairman, North Dum Dum municipality. The said appeal has been rejected vide order dated 28.8.2024.

11. This court has heard the arguments advanced by the parties and has perused the documents on record.

12. As can be evident from the rejection letter dated 29.7.2024 the respondent had rejected the petitioners' application for sanctioning of the building plan for non-compliance of the procedural formalities. It is also indicated that once the petitioners rectifies the observations their application can be considered afresh. The appellate authority had highlighted this aspect and had mentioned in his order dated 20.8.2024

that the petitioners can file an application after rectifying all the points raised by the respondent municipality.

13. In view thereof this court finds no illegally or infirmity in the order passed by the respondent municipality rejecting the petitioners' application for sanctioning of the building plan or the order passed by the appellate authority vis a vis the Chairman, North Dum Dum municipality.

14. The petitioners are at liberty to rectify the defects pointed out by the respondent municipality in their letter dated 29.7.2024 and approach the respondent afresh for sanctioning of the building plan.

15. The petitioners shall comply with all the necessary formalities as mentioned in the letter and shall comply with all the building bye-laws and regulations at the time of submission of the application.

16. With the above direction, the present writ petition is disposed of.

17. Since no affidavit is called for, allegations made in the writ petition are deemed to have been denied.

(Gaurang Kanth, J.)