

28.01.2026
sayandeep
Sl. No. 1
Ct. No. 03

WPA 9434 of 2024

Dhiraj Mondal
Vs.
The State of West Bengal & ors.

Mr. T. K. Halder
Mr. G.S. Kaderi

..... for the petitioner

Mr. Mir Anuruzzaman

..... for the municipality

Mr. Amal Kr. Sen
Ms. Ashima Das

.... For the State

1. The petitioner claims to be owner in respect of 1.50 Kathas of land in LR Plot No. 2617 under LR Khatian No. 21900 in Mouza-Kamrabad, P.S-Sonarpur. The petitioner claims that consequent upon acquiring interest in the aforesaid property, the petitioner had got his name mutated from the office of the respondent No. 8. Subsequently, the petitioner had also constructed a residential building on the basis of the sanctioned plan duly sanctioned by the municipal authorities. The petitioner would, however, complain that the private respondent No. 9 who is the owner/occupier in respect of 10 decimals of land in LR Plot No. 2617 comprising of a share to the extent of 0.025 decimals only, under LR No. 21900, Mouza-Kamrabad, P.S. Sonarpur has started constructing and has also in the process as aforesaid encroached upon the land belonging to the petitioner.

2. The petitioner would submit that the municipal authorities could not have under any circumstance granted permission to the respondent No. 9 to construct on the petitioner's property. According to the petitioner, the respondent No. 9 while constructing on his plot has also extended and kept a hanging roof which is on the other side of the property in question and a complaint in this regard has also been lodged with the municipality by the adjacent neighbour of the private respondent. Although, the petitioner had made a complaint with the municipal authorities, the complaint did not evoke any results. Following the above, the petitioner has approached this Court.
3. The learned advocate for the municipality is represented. He has placed before this Court a stop work notice dated 30th May, 2023 and would submit that the respondents had already taken steps in the matter.
4. Having heard the learned advocates appearing for the respective parties and considering the fact that apart from issuing notice dated 30th May, 2023, no further steps have been taken by the municipality, in my view, it shall be prudent to direct the municipality to forthwith carry out an inspection of the building constructed by the respondent No. 9. For the time being the petitioner may be notified of such inspection though may not be invited to the same. The report thereof, must be supplied to the petitioner. On the

basis of the above inspection and the materials available, the municipality must decide as to whether respondent No. 9 has carried out any illegal construction and/or whether the construction that has come up at the instance of the respondent No. 9 is in accordance with sanctioned building plan. The decision in this regard must be taken by passing a reasoned order. It is expected that the above decision shall be taken within a period of 4 weeks from the date of communication of this order by carrying out the inspection in the manner as directed hereinabove.

5. In the event, the municipality is of the view that the respondent No. 9 has deviated from the sanctioned building plan, appropriate steps in accordance with the provisions of Section 218 of the West Bengal Municipal Act, 1993 shall be initiated. On the contrary if, the municipality finds that there has been no illegal construction and/or no deviation from the sanctioned building plan, the matter need not be proceeded further. Since affidavits have not been invited, the allegations made in the petition are deemed not to have been admitted by the respondents.
6. It is made clear that this Court has not entered into the merits of the case and it shall be open to the municipality to decide on the complaint in accordance with law being uninfluenced by any of the observations made hereinabove.

7. Since at this stage, the learned advocate for the municipality would submit that unless appropriate directions are issued on the concerned BL&LRO to assist the municipality, it shall be difficult for the municipality to comply with the aforesaid direction, I am of the view that if any request is made by the municipality to the concerned BL&LRO to assist the municipality in the matter of demarcation of the property in question, the BL&LRO should afford necessary assistance.
8. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)