

06.01.2026
Ct. No.3

D/L. 2
Mujahid

WPA 28022 of 2023

Priyam Banerjee & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Priyam Banerjee
Mr. Rupam Banerjee
...petitioners in-person

Ms. Mousumi Bhowal
Mr. Aman Gupta
Mr. Ishan Bhattacharya
...for the South Dum Dum Municipality

Mr. Samim Ahammed
Ms. Ambiya Khatun
Ms. Reshma Khatun
...for the respondent nos. 8, 15 & 16

1. The present writ petition has been filed, inter alia, praying for a direction upon the municipal authorities to demolish the unauthorized/illegally constructed buildings upon E.P. Nos. 07, 08, 09, 10, 12A, 13, 14, 15, 16, 16A, 1, 1A, 1B and house no. 360/27D and the club building situated to the North of E.P. No. 08 at Mouza – Kalidaha, J.L. No. 23 of the Shyama Prasad Colony in North 24-Parganas. As also for a direction upon the municipal authorities to initiate proceeding under Sections 204 and 218 of the West Bengal Municipal Act, 1993.

2. Records would reveal that this Court by an order dated 11th March, 2024 had directed a spot

inspection to be conducted and the report thereof to be filed before this Court.

3. Pursuant to the aforesaid direction, a spot inspection was carried out by the municipality and the report thereof was circulated to the petitioners, who are appearing in-person. The inspection report prepared by the Sub-Assistant Engineer, South Dum Dum Municipality would demonstrate that the inspection was conducted upon the prior notice to the owners of the respective holdings. The municipal authorities, during inspection, had been able to ascertain that the owner of the Holding Nos. 13, 22, 23 and the owner of house no.365/27D had constructed their existing building on the basis of the sanctioned building plan. Insofar as the owners of the Holding Nos. 9, 11, 12, 14, 18, 24, 25 and 26 are concerned, it was recorded in the inspection report that the construction had taken place by the respective land holders who had been allotted pattas in Shyama Prasad Colony, on the basis of sanctioned building plans submitted before the South Dum Dum Municipality during the period 1973 to 1988, however, no documents in support thereof could be produced. The report further records that the person who had constructed the buildings are displaced person from east Pakistan and had been settled on various plots of land, which had been vested in the

Government of West Bengal for residential purposes and ultimately the State Government had granted patta (settlement gift) and the area is popularly known as Shyama Prasad Colony.

4. Following the aforesaid, the petitioners had sought for leave to file an exception. In the exception filed, the petitioners have acknowledged the fact that the construction at Holding No.22 being E.P. No.16 had been done on the basis of a sanctioned building plan, however, the completion certificate has not been obtained. The sanction has also been issued dehors the statutory provisions. Similarly, in the case of Holding No.23 E.P. No.16A, though, the construction was on the basis of a sanctioned building plan which was renewed from time to time, the construction was not completed in time. The completion certificate has also not been obtained for the same.

5. Insofar as the Holding No.13 E.P. No.09 it is also admitted that the building plan was duly sanctioned, however, such sanctioning of the building plan was not in accordance with law. In this case as well, the completion certificate was not issued. Insofar as Holding Nos. 09 E.P. No.7, Holding No.11 and E.P. No.8, Holding No.14 E.P. No.10, Holding No.18 E.P. No.12A, Holding No.24 E.P. No.14, Holding No.24 E.P. No.15 and Holding 26 E.P. No.13, it is claimed that there is no sanctioned building plan

and false statements have been made by the municipality. It is also stated if the owners of those concerned buildings, genuinely erected those buildings during the period 1973 to 1988 on the basis of sanctioned building plan in accordance with all law/prescribed procedures, then the number of floors of those buildings would have been mentioned.

6. Having heard the learned advocate for the parties and having considered the materials on record, I find that though an objection has been filed to the inspection report, there is, however, no specific denial in the aforesaid objection as regards the aforesaid building being constructed between the years 1973 and 1988. It transpires that the petitioners are interested in making a roving inquiry. The photographs disclosed by the petitioners do not prima facie demonstrate that the aforesaid buildings have been newly constructed.

7. Be that as it may, there is no explanation forthcoming from the petitioners as to why the petitioners had previously not moved the writ petition and why only at this stage the present writ petition has been filed. There is also no appropriate explanation for the delay.

8. The learned advocate for the municipality has also drawn the attention of this Court to the order dated 13th May, 2024 passed in WPA 28024 of 2023

which is a writ petition filed by the same petitioners in respect of the identical plots in question. It appears that the co-ordinate Bench of this Court by the aforesaid order had rejected the petition. Let a copy of the aforesaid order as placed before this Court be taken on record. From the materials available on record including the sanctioned plan which has been disclosed by the municipality, it transpires that most of the buildings are with the sanction. Further in other cases construction that has taken place is about four decades old. The petitioners are thus not entitled to any orders in the present petition. Accordingly, the present petition stands dismissed.

9. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this court.

(Raja Basu Chowdhury, J.)