
(2018) 01 CAL CK 0155
In the Calcutta High Court
Case No : 29445 (W) of 2017

Kanika Biswas

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 25-01-2018

Acts Referred:

Citation : (2018) 01 CAL CK 0155

Hon'ble Judges : Subrata Talukdar

Bench : Single Bench

Advocate : Arati Dutta, Samrat Sarkar, Sananda Bhattacharyya, Ahana Roy, Debabrata Chatterjee, Biswa Nath Samanta, Soumyajit Bhatta, Koushik Roy

Judgement

1. Party/Parties are represented in the order of their name/names as printed above in the cause title.
2. On a conjoint consideration of the stand taken by the parties the following facts emerge:- a) That the private respondent nos. 9 and 10 in the present writ petition filed an earlier writ petition, being W.P. 6033 (W) of 2015;
b) By the order dated 30th of June, 2015, W.P. 6033 (W) of 2015 was disposed of with a direction upon the Pradhan, Singur-I Gram Panchayat (GP), the present respondent no. 3, to consider and dispose of the representation of the present private respondent nos. 9 and 10 dated 19th of January, 2015 on the issue of the construction of the dwelling house of the present petitioner without a sanctioned plan;
c) The Hon'ble Court was further pleased to direct that the Pradhan shall grant the representative of the present petitioner as well as the representative of the present private respondents an opportunity of being heard. The Pradhan shall also cause physical verification of the premises through a competent person;
d) In a strange turn of events the Pradhan passed his so-called reasoned order on the 25th of March, 2016, i.e. beyond the period granted by Court by the order

of 30th of June, 2015. The Pradhan came to the conclusion that no sanctioned building plan and no documents connected to such sanction were at all produced by the present petitioner at the hearing and, therefore, the dwelling house of the petitioner is an unauthorised construction liable to be demolished.

3. Mr. Chatterjee, Learned State Counsel, files, on instructions, a written statement dated 11th of December, 2017 of the Pradhan which, inter alia, discloses that for the first time the Pradhan received a copy of the sketch map of the building plan and the plan annexed to the application of the present petitioner. Such documents would now need to be verified.

4. The above noted statement of the Pradhan stands, to the mind of this Court in stark contrast to the direction of the Court dated 30th of June, 2015 which directed the Pradhan to consider the issue within a time frame. Such time frame was not only not adhered to by the Pradhan but, no additional difficulties were at all ventilated by the Pradhan during this long interlude, as sought to be done now through his Written Statement.

5. For reasons best known to the Pradhan the stand in favour of demolition taken by the Pradhan by the order impugned dated the 25th of May, 2016, is inconsistent with his present stand seeking verification of the documents produced by the present petitioner. The Pradhan" pretended bona fide stand taken today through the Written Statement, for the reasons as discussed above, borders on the dubious.

6. Next, this Court is to consider the allegation made by the present petitioner that the private respondent no. 12/ the West Bengal State Electricity Distribution Company Limited (for short WBSEDCL) has placed a transformer at a site outside the bedroom of the present petitioner and, ostensibly for the benefit of the diagnostic clinic being run on the adjacent premises by the private respondent nos. 9 and 10. .

7. This Court, prior to initiating its own inspection of the premises in issue, is satisfied at this stage to call for a Report on Affidavit of the facts and circumstances necessitating the placement of the transformer outside the bedroom of the petitioner. The Report on Affidavit shall be filed by the dealing officer on the ground of the respondent no. 12/WBSEDCL and, vetted by his next superior officer commanding the area/zone/office of the WBSEDCL.

8. It is also brought to the notice of this Court that another writ petition filed by the present private respondent nos. 9 and 10 is pending in respect of the self-same premises.

9. Having considered the submissions of the parties and the materials placed, this Court directs that the other writ petition, being W.P. 326 (W) of 2015, be brought on board for analogous consideration. The parties shall be free to exchange their affidavits to both the writ petitions by the next date. The Respondents/WBSEDCL shall also file a report, as directed above, by the next

date.

10. Let affidavits be exchanged in both the writ petitions within a cumulative period of 9 weeks from date.

11. Liberty to mention strictly upon notice to the other sides after the cumulative period granted to exchange affidavits is complete.

12. This Court is also prima facie satisfied that the petitioner is in need of an interim protection pending further hearing of the writ petition.

13. Accordingly, the impugned order of demolition dated 25th of May, 2016 shall remain stayed until further orders.

14. Documents produced in Court today be retained with the record.

15. Affidavit-of-Service filed be also kept with the record.

16. Liberty to vacate or modify the interim order, again strictly upon notice to the other sides.

17. Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.