

17.10.2023
Item No.4
Ct. No.17
S.A. /BP

WPA 11753 of 2023

Panchibala Polley

-vs-

The Bidhannagar Municipal Corporation & Ors.

Mr. Sumitava Chakraborty

Ms. Ipsita Ghosh

...for the petitioner

Mr. Sirsanya Bandopadhyay

Mr. Tirthankar Dey

Mr. Arka Kumar Nag

...for Bidhannagar Municipal Corporation

Mr. Debjit Mukherjee

Ms. Kalpita Paul

...for the State

Mr. Adil Badr

Mr. Aqib Badr

Ms. Nafisa Anwar

Mr. Shakti Shivam

...for the respondent no.8

Mr. Sobhan Gani

Mr. Abdul Kalam Choudhury

Mr. Vishal Prasad

...for the respondent no.9

Mr. Sandeep Prasad Shaw

Mr. Chandra Prakash

...for the respondent no.10

Mr. Billwadal Bhattacharyya, ld. DSGI

Mr. Arijit Majumdar

...for Union of India

Mr. S. S. Koley

...for WBSEDCL/Station Manager

Mr. Baidurya Ghosal

Ms. Sangeeta Roy

Ms. Monallisa Maity

...for purchasers/co-sharers/co-owners

1. Some flat owners of the unauthorized construction are present. One of the flat owners is Mr. Manoj Shaw who has booked one flat of 200 sq. ft. in the name of his wife Baby Shaw from the promoter by paying Rs.5,00,000/- (rupees five lakhs). He has produced one

agreement for booking dated 12.12.2022. His flat is on the ground floor of the premises.

2. Mr. Anup Daptari, another flat owner has purchased another flat of 480 sq. ft. He has paid an amount of Rs.12,50,000/- (rupees twelve lakhs and fifty thousands) to the promoter and the rest of the amount being Rs.3,34,000/- (rupees three lakhs and thirty four thousands) is due. He has executed an agreement for booking of the flat on 23.09.2022.
3. One Mithlesh Shaw has purchased one flat of 900 sq. ft. and one shop room of 200 sq. ft. He has paid to the promoter an amount of Rs.32,00,000/- (rupees thirty two lakhs) and an amount of Rs.20,00,000/- (rupees twenty lakhs) is due. He has produced two agreements for booking for one flat and one shop room. One is dated 16.07.2021 and the other was executed on some date which is not given in that document. Photocopy of the document is kept with the record.
4. One Mr. Aslam Ali has purchased another flat along with his wife Manira Begam from the so called promoter for which an agreement dated 30.09.2022 has been produced. The total area of the flat is 820 sq. ft. He has paid Rs.23,00,000/- (rupees twenty three lakhs) to the promoter and an amount of Rs.3,26,000/-

(rupees three lakhs and twenty six thousands) is due to the promoter. One photocopy of the booking agreement has been booked which is kept on record.

5. One Sudipta Bag Saha is another flat owner who has produced one agreement for booking wholly undated. She has booked a flat of 750 sq. ft. She has paid Rs.20,00,000/- (rupees twenty lakhs) and an amount of Rs.6,25,000/- (rupees six lakhs twenty five thousands) is due. The amount of money has been given to the promoter. The photocopy of the said agreement of Sudipta Bag Saha is kept on record. The original is returned to her.
6. One Joydeb Kamila is another owner of one shop room who has purchased the shop room from the promoter and has paid him Rs.8,00,000/- (rupees eight lakhs) and Rs.80,000/- (rupees eighty thousands) is due. The original of the agreement is returned and a copy thereof is kept with the record.

Nobody has been able to give a correct number of flat owners in the said illegal construction who have purchased flats and/or shop rooms from the promoter. The above named persons appeared with only a document of “agreement for booking” and there is no purchase deed but they have paid huge amount of money for possessing the said flats.

1. Rathin Panja S/o. Kashinath Panja
2. Srimanta Middy S/o. Tarak Dasi Middy
3. Barun Panja S/o. Gobinda Panja
4. Gita Panja W/o. Late Jagannath Panja
5. Dilip Polley S/o. Late Sasadhar Polley
6. Subrata Makhal S/o. Late Tulsi Charan Makhal
7. Kajal Mondal W/o. Shyam Mondal and D/o. Sasadhar Polley, are the co-shares of the plot of land where the unauthorized construction is made.

The demolition order passed yesterday is kept in abeyance as of now. I have found that the co-sharers and also the purchasers of flat who are separate group have been duped either by the co-sharers or by the developers being the private respondents or by both. After talking to them I have found that none of them comes from a rich family. Therefore, on humanitarian ground I do not pass any demolition order today. This order may be passed after the festive season.

The I.C. of Bidhannagar Police Station Mr. Arka Mukherjee is present who has submitted that in this festive season the police force will remain busy for different duties which are known to all. Therefore, sufficient police force will not be available to execute

any demolition order. If necessary, in future I may have to obtain the help of Central Reserve Police Force for demolition of the building. From the photograph shown to me which has been shown to the purchasers of the flat today I am told that most of the agitators were outsiders and very few of the flat owners or the flat purchasers took part in the agitation. I direct the police authority to find out the persons who did not have any connection with the flat either as flat owners or as the co-sharers of the plot of land but agitated yesterday. Their names and whereabouts are to be filed by the police authority through the learned advocate for the State.

The purchasers of flats and shop rooms whose some amount of money are due to the developers, shall not pay any further amount to the promoters.

I direct the petitioner to implead the flat purchasers and also the co-sharers as party respondents in course of this week and to serve copy of the writ application upon them by 3rd November, 2023.

The matter is adjourned till 19th December, 2023.

The personal appearance of the Councillor, the flat owners and the co-sharers are dispensed with as of now.

The personal appearance of the Station Manager is also dispensed with.

The Officer on behalf of the WBSEDCL has intimated that there was one lawful electricity connection in the name of one Barun Panja and in that name all other meters from that connection of the whole building for the flats and the shop rooms have been given. Sub-meters are there.

The local Councillor has submitted that the problems faced by the occupiers of the building both co-sharers and the purchasers of flat. She has submitted with her heart and brain that they are in abject penury comparing to the moneyed persons of this country and before passing any order of demolition which will put them under the open sky, this court should consider their acute problems with sympathy. Though sympathy cannot be a factor while passing an order in terms of law, I will request the Mayor of the Corporation and the Commissioner of Corporation to sit in a meeting with the Councillor with their learned advocate Mr. Sirsanya Bandopadhyay to see that if there can be any solution to save these persons who are very poor.

Therefore, I hope and expect that the Mayor and the Commissioner of Corporation will sit in a meeting with the Councillor and their learned advocate Mr. Sirsanya Bandopadhyay after the Puja days i.e. after 24th November, 2023 to find out a solution of the problems faced by human beings who are found from their submissions, are living a sub-

human life. The decision of the meeting in the form of a report is to be submitted before this court on the next date of hearing i.e. on 19th December, 2023.

The matter is marked as 'heard in part'.

(Abhijit Gangopadhyay, J.)