

07.07.2025
Sl. No. 16
Ct No. 3
SG

WPA 27639 of 2024

**Oindrila Apartment Flat
Owners Association & Ors.
Vs
The South Dum Dum Municipality & Ors.**

Mr. Samin Ahammed,
Mr. Arka Maiti,
Ms. Saloni Bhattacharya.

...for the petitioners

Mr. Amales Ray, Sr. Adv.
Ms. Mousumi Bhowal,
Mr. Aman Gupta,
Mr. J. Bhattacharya.

...for municipality

Mr. Bikram Banerjee,
Mr. Sagar Dey,
Ms. Adrita Dey,

... for respondent no. 3

Mr. Ansar Mondal,
Ms. Srilekha Bhattacharyya.

...for the State

1. Affidavit-of-service is taken on record.
2. The petitioners have preferred the present writ petition under Article 226 of the Constitution of India, primarily seeking appropriate directions upon the respondent-municipality to take immediate action against respondent no. 3, who, according to the petitioners, has raised construction in excess of the sanctioned building plan at the aforementioned premises.
3. Learned Counsel appearing for the petitioners submitted that respondent no. 3 has undertaken

illegal construction beyond the sanctioned limits. In support of such contention, the petitioners placed reliance upon an RTI reply dated 22.02.2024 issued by the South Dum Dum Municipality in response to an application dated 15.02.2024. The said reply stated that the sanctioned building plan permitted construction up to four storeys only.

4. However, it is now evident, and not disputed by the petitioners themselves, that the building plan has undergone subsequent modification. The respondent-Municipality has, on instructions, categorically submitted that although the original building plan, bearing no. 313 dated 04.12.2019, sanctioned construction up to four storeys, the same was subsequently modified by way of an addition/alteration plan bearing no. 520 dated 20.02.2022, which validly sanctioned construction up to seven storeys. It has been clarified that the current construction conforms to the modified sanctioned building plan and does not involve any unauthorized addition of floors.

5. In light of the above, the grievance of the petitioners stands substantially undermined. The RTI response relied upon in the writ petition is based on an earlier sanction and does not reflect the subsequent approval. The continued reliance on such

incomplete or outdated information, especially after the sanctioned plan for seven storeys had come into existence, renders the present writ petition devoid of merit.

6. Furthermore, the petitioners, by filing a supplementary affidavit, have admitted that the contents of the original writ petition were based on an inaccurate premise. The supplementary affidavit unequivocally acknowledges that the construction in question has been carried out in accordance with a duly sanctioned plan permitting seven storeys. Such an acknowledgment not only nullifies the primary ground urged in the writ petition but also demonstrates a material omission of relevant facts in the original pleadings.

7. This Court is constrained to observe that the petitioners were, at all material times, aware of the existence of the sanctioned plan permitting construction up to seven storeys, yet they deliberately chose not to disclose the same in the initial petition. This conduct smacks of an attempt to mislead the Court and abuse the process of law. It appears that the present writ petition was instituted with oblique motives, possibly to cause harassment or extract undue advantage from the private respondent.

8. This Court strongly deprecates the filing of such misconceived petitions which burden the judicial system and divert its attention from genuine matters requiring judicial scrutiny. Such conduct warrants imposition of exemplary costs.

9. Accordingly, the writ petition stands dismissed with exemplary costs assessed at Rs. 10,000/- (Rupees Ten Thousand only), to be deposited by the petitioners with the West Bengal State Legal Services Authority within a period of four weeks from the date of this order.

10. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with usual formalities.

(Gaurang Kanth, J.)