

GAHC010252862023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6525/2023

M/S THAKURIA AUTO WHEELS
REP. BY DILIP KUMAR THAKURIA,
S/O- LATE NARESH CHANDRA THAKURIA,
R/O- KHANAMUKH,
P.O- DHARAPUR,
P.S- AZARA, UNDER AZARA GP,
NH-37, GUWAHATI-17,
DIST- KAMRUP (M), ASSAM

VERSUS

THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY AND 3
ORS.
REP. BY THE CHIEF EXECUTIVE OFFICER,
STATFED BUILDING, BHANGAGARH, GUWAHATI, ASSAM, PIN- 781005,

2:THE CHIEF EXECUTIVE OFFICER

GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (GMDA)
STATFED BUILDING
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005.

3:THE TOWN PLANNER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY (GMDA)
STATFED BUILDING
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005.

4:PARAG MANI KAKATI
S/O- LATE BANI KANTA KAKATI AND
LATE SATYABATI KAKATI
R/O-VILLAGE DHARAPUR

P.O- DHARAPUR

P.S- AZARA

DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : SC, G M D A

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

22.11.2023

Heard Shri R. Sarma, learned counsel for the petitioner.

Also heard Ms. S. Chutia, learned counsel appearing for the GMDA -
respondent nos. 1, 2 & 3.

In view of the order proposed to be passed, notices are not required to be
issued to the private respondent no. 4.

The petitioner is aggrieved by a communication dated 04.11.2023 by
which his presence has been directed along with witnesses for a site inspection
of the building in question. The said building is a RCC structure of G+4 at
Khanamukh, Guwahati.

It is the case of the petitioner that the petitioner had earlier approached

this Court by filing WP(C)/4091/2023 against an order dated 11.07.2023 by which the building in question was directed to be demolished after considering the response to the Show Cause Notice submitted by the petitioner. In the aforesaid writ petition, this Court has passed an order dated 24.07.2023 issuing notice and in the meantime, it was directed that the demolition on the land of the petitioner shall not be proceeded without taking leave of this Court.

For ready reference, the operating part of the order is extracted herein below:

“12. Accordingly, till 11.08.2023, the GMDA shall not proceed with the demolition of the illegal construction made in the land of the petitioner without the leave of the Court and that there would be no bar to proceed with the proposed action after 11.08.2023, subject to further orders of the Court.”

The said aforesaid interim order was extended vide a subsequent order dated 11.08.2023.

It is the case of the petitioner that the impugned communication dated 04.11.2023 issued by the GMDA is in the teeth of the interim order.

On the other hand, the learned counsel for the GMDA has submitted that the aforesaid exercise is not in violation of the interim order and is rather a step taken in compliance of the interim order by which an inspection for the deviation and set back has been sought to be made and there is no cause of action.

In the opinion of this Court, impugned communication dated 04.11.2023

cannot be construed in any manner to be in violation of the interim order passed by this Court in the earlier writ petition WP(C)/4091/2023 which is pending and is rather an exercise carried out to inspect the deviation and set back measurement.

This Court is of the opinion that there is no cause of action which would arise by issuance of the communication dated 04.11.2023 and accordingly the writ petition is dismissed.

JUDGE

Comparing Assistant