

16.10.2020
Item No.28
(Susanta)

(Via Video Conference)

**W.P.A. 7339 of 2020
With
IA NO: CAN 1/2020**

**Pradip Kumar Ghosal
Vs.
The Chairperson, Board of Administrators
Arambagh Municipality & Ors.**

Mr. Ankit Agarwal,
Mr. Alotriya Mukherjee,
... For the petitioner.

Mr. Sounak Bhattacharyya,
.... For the private respondent.

None appears on behalf of the State respondents.

The petitioner complains that on the basis of his representation to the Chairman Arambagh Municipality complaining illegal construction over L.R Dag No. 241 under LR Khatian No. 8437 of Parul Mouza of Police Station : Arambag, District : Hooghly a notice dated November 14, 2019 directing stop the construction work was issued by the respondent municipal authorities but no action has been taken till date to implement the said notice.

Mr. Ankit Agarwal, learned appearing on behalf of the petitioner prays that the Municipal

Authorities may be directed to implement the said stop work notice.

Mr. Sounak Bhattacharya, learned advocate for the private respondent no. 4, vehemently submits that the writ petition is not maintainable since the petitioner at paragraph 17 of the writ petition has raised a dispute regarding encroachment of his land which cannot be decided in an application under Article 226 of the Constitution of India.

The statements made in a paragraph of the writ petition do not affect its maintainability inasmuch as the petitioner is entitled to seek issuance of a writ of mandamus for implementation of a statutory notice when the respondent authorities have failed to discharge their legal obligation in giving effect to it.

The contention of Mr. Bhattacharya is therefore overruled.

The respondent municipal authorities are directed to see that the stop work notice dated November 14, 2019 appearing at page 112 of the writ petition being Annexure P-8 to the writ petition is implemented immediately.

WPA 7339 of 2020 is disposed of with the above terms.

No affidavit-in-opposition since has been invited all the allegations made in the writ petition are deemed to have been denied by the respondents.

The connected application being IA No. CAN 1 of 2020 is disposed of accordingly.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)