

21.12.2020
DL 174
ns Ct.04

W.P.A. No.8154 of 2020

**Apurba Dasgupta.
Versus
The Egra Municipality & Ors.**

Mr. Mukul Lahiri, sr. adv.,
Ms. Aditi Dutta ... For petitioner.

Mr. Uttam Kr. Bhattacharya,
Mr. Rajkumar Chakraborty ... for respondent no.6.

Petitioner has moved Court seeking direction upon the authorities, particularly the Municipality, to proceed in accordance with law where sections 204, 204A and 255 in West Bengal Municipal Act, 1993 have been mentioned and provisions in the rules. Mr. Lahiri, learned senior advocate appears on behalf of petitioner and submits, section 218 is provision for demolition. He draws attention to letter dated 28th September, 2020 issued by the Municipality to his client in response to queries made seeking information. The Municipality has in clear terms stated deviation from building plan on construction at premises of private respondent. That septic tank has been connected to another's and no completion certificate in respect of the construction was submitted so no occupancy certificate was issued by the office. The

Municipality, having found the facts, have not acted in initiating demolition proceedings.

Mr. Bhattacharya, learned advocate appears on behalf of private respondent while the Municipality goes unrepresented. Track record corresponding to postal receipts showing despatch, confirmed delivery on functionaries of the Municipality.

Mr. Bhattacharya, files affidavit-in-opposition. He submits, Court has been moved as counter-blast. He draws attention to notice dated 9th September, 2014 issued by the Municipality on petitioner regarding unauthorised construction and the orders in order sheet from Magistrate's record containing orders of Additional Chief Judicial Magistrate, Contai in respect of FIR and written complaint registered as Egra PS Case no.162 of 2015 dated 10th May, 2015, under section 188 IPC and section 214, West Bengal Municipal Act, 1993, where accused is petitioner.

Petitioner has produced material to show there is omission on part of Municipality with regard to it having enquired and found, even for purpose of answering queries of petitioner, that there has been unauthorised construction and occupation without completion and occupancy certificate issued. By the affidavit-in-opposition private respondent has brought to light registration of a criminal case regarding unauthorised construction alleged to have been made by petitioner, in year 2014.

The Municipality is directed to act in accordance with law regarding information and facts it has on unauthorised construction made by private respondent and, petitioner long ago in year 2014. It will initiate proceeding or proceedings regarding the unauthorised construction as under the law. Petitioner and private respondent are to be given hearing on the proceeding or proceedings that are to be initiated. The proceeding or proceedings must conclude within four weeks from date of communication of this order. Order or orders made are to be communicated to petitioner and private respondent within that time.

Mr. Chakraborty submits that copy of affidavit-in-opposition was refused by learned advocate of petitioner. Submission on behalf of petitioner is that since there was no direction for affidavit, the copy was refused. The copy has been served in Court. Allegations made in the opposition cannot be deemed to have been admitted by petitioner since opportunity to reply is not there on the writ petition being dealt with today.

The writ petition is disposed of.

(Arindam Sinha, J.)