

Court No. 24

10.03.2021

(Item No. 29)

(AB)

W.P.A 1464 of 2021

Uma Karmakar

vs

The State of West Bengal & Ors.

Mr. Soumajit Bhatta

..... for the petitioner

Mr. Sankha Subhra Ray

..... for respondent Nos. 2-4

Mr. A. Haldar

..... for private respondent

Mr. Ziaul Islam

..... for the State

The petitioner alleges illegal and unauthorized construction by the private respondent at the holding No. 237, Bandhab Nagar, Ward No. 34, Belgharia under the Kamarhati Municipality.

After filing of the writ petition the Kamarhati Municipality afforded an opportunity of hearing to the petitioner as well as the private respondents on 8th February, 2021. Both the parties appeared on the said date. The petitioner complains that the fate of the hearing has not been intimated to her till date.

The learned advocate appearing on behalf of the Kamarhati Municipality has handed over a copy of the extract of the minutes of the proceeding of meeting of the Board of Administrators of Kamarhati Municipality held on 8th February, 2021. It appears therefrom that an inspection was conducted in the said premises and a notice under Sections 218 and 220 of the West Bengal Municipal Act, 1993 was

issued to the private respondents as he failed to produce a sanction building plan in support of the construction being made.

The private respondent denies that any new construction is being made in the said premises. It has been submitted that only a tin shed has been fixed in place of the tile shed, which was existing.

The petitioner categorically asserts that unauthorized construction is being carried on at the said premises.

It appears that there are several disputed questions of facts involved in the instant writ application.

In view of the above, the competent authority of the Kamarhati Municipality is directed to conduct an inspection at the site, upon prior notice to both the parties and take necessary steps against the person responsible for making unauthorized construction. In the event it is found that there is any unauthorized construction in the said premises, either in violation of the plan sanctioned or devoid the sanction plan, then steps shall be taken to deal with such unauthorized construction strictly in accordance with law, after giving an opportunity of hearing to both the parties, at the earliest, but positively within a period of six months from the date of communication of a copy of this order.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

Since the Municipality has come to a prima facie finding that there is unauthorized construction in the said premises, accordingly the private respondent is restrained from making any further construction in the said premises till a decision is taken by the Municipality in this regard.

The petitioner is directed to forward a copy of the representations dated 14.12.2020 and 23.12.2020 to the aforesaid respondent at the time of communicating the order of the Court.

The copy of the extract of the minutes of the proceeding of the meeting held on 08.02.2021 by the Kamarhati Municipality is retained with the records.

Urgent photostat certified copy of this order,
if applied for, be supplied to the parties upon
completion of usual legal formalities.

(Amrita Sinha, J.)