

30.09.2021
Sl. No.8
srm

W.P.A. No. 2423 of 2021
Tarak Adhikary & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Debashis Basu,
Mr. Biswajit Maity,
...for the Petitioners.

Mr. Dipak Kumar Mukherje,
Mr. Rajib Mukherjee
...for the Uttarpara Kotrung Municipality.

Mr. Saptangshu Basu,
Mrs. Suman Agarwal Halder
...for the Respondent No.8.

Mrs. Sipra Majumdar,
Mr. Khairul Alam
...for the State-Respondents.

Affidavit of service is taken on record.

The petitioners have alleged inaction on the part of the Uttarpara Kotrung Municipality in disposing of the complaint lodged by the petitioners. The complaint is with regard to illegal and unauthorised construction of a multi-storied building by the respondent No.8 under the name & style 'Parijat Apartment' situated at 320, Binoy Badal Dinesh Road, Bhadrakali, District-Hooghly.

Mr. Basu, learned Senior Advocate appearing on behalf of the respondent No.8, submits that the writ petition should not be entertained as the allegations are vague and unfounded.

On the one hand, the petitioners have alleged construction without a sanction plan and, on the other, the petitioners have pleaded that the alleged construction was beyond the sanction plan. The commission of actionable nuisance has also been alleged. According to Mr. Basu, the writ petition does not merit consideration in view of the contrary stands taken by the petitioner.

Having heard the learned Advocates for the respective parties, this Court is of the opinion that the municipal authorities are duty bound to ensure that no constructions should take place in violation of the provisions of law. Thus, in this case, the municipal authorities must dispose of the complaint lodged by the petitioners which are at pages 32 to 34 being annexures P2 and P3 to the writ petition. While considering the said representations, the competent authority of the municipality shall cause an inspection of the premises in presence of both the parties. A copy of the report shall be supplied to the parties. Thereafter a hearing shall be held upon giving an opportunity to all the parties to make their submissions and produce their documents in support of their contentions. Upon conclusion of hearing, a reasoned order shall be passed and communicated to all concerned. The municipal authorities shall act and proceed in accordance with law on the basis of what transpires at the time of hearing and

during inspection and reach the proceeding to its logical conclusion.

The entire exercise shall be completed within a period of five months from the date of communication of this order.

This Court has not gone into the merits of the claims and counter-claims of the parties.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)