

18.11.2021
Court No. 19
Item no.09
CP

WPA 2764 of 2020

Mani Bhusan Saha
Vs.
State of West Bengal & ors.

Ms. Sumita Sen
Mr. Koushik Chowdhury

.....for the petitioner.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Mrs. Supriya Dey Barat
Ms. S. Bhaduri

.....for the municipality.

Affidavit of service is taken on record. None appears on behalf of the respondent no. 7.

The petitioner has alleged non-implementation of the order of demolition passed by the authorities of the Uttarpara Kotrung Municipality. Communication to that effect is relied on.

It appears that the Vice-Chairman, Uttarpara Kotrung Municipality communicated the order of demolition to the respondent no. 7 sometime in November 2019. An order was also issued to the petitioner asking the petitioner to remove some unauthorized portions of a boundary wall. Records reveal that there was an inspection of the premises of the petitioner as also the respondent no. 7 and a hearing was held. Pursuant thereto an order was passed directing both the petitioner and the

respondent no. 7 to remove their respective unauthorized structures which had been constructed by them as pointed out in the inspection report by the municipal authorities.

As it is not available before this court whether the petitioner and the respondent no. 7 had complied with the order of the municipality, no order can be passed in favour of the petitioner at this stage.

The Uttarpara Kotrung Municipality shall hold a fresh inspection of the premises situated at Holding No. 175 B.M. Saha Road, corresponding to Premises No. 287 and 288 B. M. Saha Road in the presence of the parties upon giving 48 hours advance notice to the parties. During such inspection, the municipality will ascertain whether the order of the appropriate authority dated November 26, 2019 directing both the parties to demolish their respective unauthorized portions has been complied with or not.

If either of the parties or both the parties have not complied with the orders, the municipality shall act and proceed in accordance with law upon giving the parties 30 days' time to remove the unauthorized portions. Thereafter, the municipality shall proceed in the matter in accordance with law.

The records of the municipality were produced in court from which it appears that both the parties attended the hearing and the order was passed in

their presence by the competent authority directing both the parties to demolish their respective unauthorized structures. There is nothing on record to show that any appeal therefrom has been preferred.

The writ petition is disposed of accordingly. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)