

23.09.2021
Sl. No.11
srm

W.P.A. No. 5671 of 2021
Sukdev Halder
Vs.
The Haldia Municipality & Ors.

Mr. Raj Dip Roy,
Mr. Goutam Dinda
...for the Petitioner.

Mr. Sobhan Majumder
..for the Respondent Nos.6 & 7.

Mr. S.M. Hassan,
Ms. Anupama Yasmin
...for the Haldia Municipality.

Pursuant to an order dated September 1, 2021 passed by this Court, the Sub-Assistant Engineer, Haldia Municipality has filed a report through his learned Advocate from which it appears that the respondent Nos.6 and 7 are constructing within the demarcated area under the 'Housing for All' scheme sponsored by the West Bengal Government and the Government of India.

It is submitted by the learned Advocate appearing on behalf of the Haldia Municipality that the plan has been sanctioned and approved by the municipality and the respondent Nos.6 and 7 are supposed to construct in accordance with the said plan.

However, the report does not indicate as to whether the allegation of the petitioner that the construction has been made on the basis of the sanction plan has been considered or not. With regard to demarcation of land, *prima facie* observation of the municipality is accepted by the Court especially because neither the writ Court nor the municipality can go into the question of title, encroachment, etc. If the petitioner desires the actual demarcation of land, then the remedy lies before the Civil Court. However, the query of the municipality should be restrained only to the aspect as to whether any construction has been made in deviation of the plan sanctioned by the municipality.

This writ petition is disposed of with a direction upon the competent authority of the Haldia Municipality to make an inspection in presence of both the parties and to ascertain whether there is any deviation from the plan. A copy of the report shall be handed over to the parties. A reasoned order shall be passed on the basis of such inspection upon hearing all the parties. The order shall be 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.

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

This Court has not gone into the merits of the case and the municipal authorities shall decide the issue independently.

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.)