

02.07.2021
SL No. 17
Court No. 24
(P.M.)

WPA 7132 of 2021

**Swapan Kumar Guha
Vs
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Dibyendu Chatterjee,
Mr. Pritam Majumdar
... for the petitioner

Mr. Mrinal Kanti Das,
Mr. Subhabrata Das
Mr. Kartick Kumar Goyal
... for the Municipality

The petitioner alleges illegal and unauthorised construction by the private respondent in a joint property. The unauthorised portion specifically complained of are, construction of two rooms on the roof and installation of a door in the common passage.

The petitioner objected to the same by filing a representation by letter dated 28th January, 2021 before the North Barrackpore Municipality and complains that the same has not been taken into consideration till date.

None appears on behalf of the private respondent despite service.

Affidavit of service filed in Court is taken on record.

The learned advocate representing the North Barrackpore Municipality submits, upon instruction, that on receipt of the complaint from the petitioner the officers of the Municipality visited the site in question but they were prevented by the private respondent from carrying on with

the inspection work. It has further been submitted that the petitioner ought to have applied before the Board of Councillors of the Municipality.

Upon hearing the submissions made on behalf of the parties it appears that an objection alleging unauthorised construction is admittedly pending at the end of the North Barrackpore Municipality. The officials of the Municipality went to inspect the premises but were restrained by the private respondent from doing so.

The instant writ petition is disposed of by directing the North Barrackpore Municipality to take necessary steps for inspection of the disputed construction which has been alleged to be constructed without obtaining a proper sanction plan from the Municipality.

The respondent no. 3 is directed to consider and dispose of the representation made by the petitioner on 28th January 2021 strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal

with such unauthorised construction, in accordance with law.

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.

The petitioner is directed to forward a copy of the representation dated 28th January, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 7132 of 2021 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)