

21.09.2021
Sl. No.16
srm

W.P.A. No. 7281 of 2021
Dhananjay Kumar Shaw
Vs.
The State of West Bengal & Ors.

Mr. Surendra Kumar Sharma
...for the Petitioner.

Mr. Santanu Kumar Mitra
..for the State.

Mr. R.N. Chakraborty,
Mr. M. Ahmed
...for the Maheshtala Municipality.

Mr. Debanik Banerjee,
Mr. Steven Sourjodip Biswas,
Mr. Akash Ganguly
...for the Respondent No.7.

Affidavit of service is taken on record.

It is contended by the petitioner that the respondent No.7 has been constructing unauthorisedly on Plot No.A3-4/1, New Sanghati Pally Road, Police Station-Rabindra Nagar, Kolkata-700024 under the Maheshtala Municipality. It is submitted that not only has the respondent No.7 constructed without a sanction plan but in the process of construction, the respondent No.7 has also encroached into a portion of the land of the petitioner, which is adjacent to the disputed premises.

Reliance is place on a communication of the Sub-Assistant Engineer, In-charge of Building Department,

Maheshtala Municipality dated March 1, 2021 issued to the respondent No.7. From the said letter, it appears that the municipality was of the *prima facie* opinion that some unauthorised construction was going on and had directed the respondent No.7 to discontinue such work. The respondent No.7 was also directed to approach the competent authority of the municipality with all documents in support of such construction.

Mr. Banerjee, learned Advocate appearing on behalf of the respondent No.7 submits that no new construction was being raised but some renovation work was going on. That after the issuance of the stop work notice, the respondent No.7 has not made any further construction/renovation.

Be that as it may, as the municipal authorities have already issued a stop work notice, this Court is of the opinion that the municipal authority should enquire into the matter and reach the issue of unauthorized construction to its logical conclusion. An inspection shall be made in presence of the parties. A copy of the inspection report shall be supplied to the parties. A hearing shall be held where both the parties shall be allowed to participate and submit documents in their favour. Upon conclusion of the 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.

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.)