

08.09.2021
Court No. 19
Item no.06
CP

WPA 8858 of 2021

Sri Samir Kumar Dey
Vs.
Chandannagore Municipal Corporation & ors.

(via video conference)

Mr. Ayanava Bhattacharyya

.....for the petitioner.

Mr. Suman Basu

.....for the respondents 1 to 3.

The report filed by the authorities of the Chandannagore Municipal Corporation is taken on record.

It appears that the demolition programme was not undertaken in view of an ad-interim order of injunction passed on January 28, 2019 by the Civil Judge (Junior Division), 1st Court, Chandernagore in Title Suit No. 64 of 2018.

The matter has a chequered history. The demolition order was issued by the Chandannagore Municipal Corporation which was challenged in a writ petition. The writ petition was dismissed. The respondent no. 7 preferred an appeal. The appeal was dismissed. Thereafter the respondent no. 7 preferred a Title Suit and the plaint was rejected on the application filed by the defendant therein. An

appeal was preferred, and in the Title Appeal the prayer for ad-interim order of injunction was refused. Although the Title Appeal is pending, there is no order in favour of the respondent no. 7 with regard to the stay of demolition.

As per the report, the Corporation has undertaken before the court that the removal of the unauthorized construction would be carried out after the pandemic situation is over.

As the Chandannagore Municipal Corporation has already undertaken that they shall remove the unauthorized construction, no further order is required to be passed by this court save and except that the Corporation shall act and proceed in accordance with law on the basis of such undertaking after verifying as to whether any subsequent order has been passed in the Title Appeal in favour of the respondent no. 7. Before the exercise is undertaken by the Corporation a notice should be given to the respondent no. 7 as the respondent no. 7 is not before this court.

The attempts of the petitioner to serve a copy of the writ petition on the respondent no. 7 has failed. Although the postal articles was sent to both the addresses used by the respondent no. 7, one in the legal proceedings initiated by the respondent no. 7 as also the one which was originally known to the

petitioner, the respondent No. 7 could not be served. However the respondent No. 7 is aware of the decision of the Corporation.

The Corporation shall serve a notice upon the respondent no. 7 at the addresses which have been mentioned in the Title Suit by the respondent no. 7 as also at the premises in question. If the respondent no. 7 is not present, a notice shall be pasted at a conspicuous place at both the addresses of the respondent no. 7.

The petitioner is also directed to send a copy of the writ petition along with a server copy of the order of this court to the learned advocate who appears on behalf of the respondent no. 7 in the civil proceedings.

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

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

(Shampa Sarkar, J.)