

02.12.2021
SL No. 18
Court No. 19
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WPA 9905 of 2021

Sayidulla Mallick & anr.

Vs

The Maheshtala Municipality & Ors.

(Via Video Conference)

Mr. Debanik Banerjee
Mr. Anirban Roy Chowdhury

....for the petitioner

Mr. Raghunath Chakraborty
Mr. Mahaboob Ahmed

....for the Maheshtala Municipality

In compliance of the order of this Court, the petitioners have served a copy of the writ petition once again upon the respondent nos. 6 to 8.

Today, affidavit of service has been filed from which it appears that the respondent nos. 6 to 8 have refused to accept service. The hearing of the matter is proceeded with ex-parte.

The petitioners have alleged that an unauthorised construction is going on, on a portion of the land situated at L.R. Dag No 35, 36, R.S Khatin No. 261, Mouza Gobindapur, under Maheshtala Municipality, ward No. 11 at the instance of the respondent nos. 6 to 8. It has been alleged by the petitioners that the said respondents have been

constructing without a sanction plan and in violation of the order of injunction passed by a Civil Court in a suit for partition being Title suit no. 249 of 2021. It has further been alleged that petitioner filled up water body.

Having considered the objection of the petitioner filed before the Chairperson of the Board of Administrators, Maheshtala Municipality, this court is of the opinion that the competent authority of the municipality must dispose of the objection raised by the petitioner in accordance with law. The enquiry of the municipality shall be restricted only to the determination as to whether the alleged construction has been raised without any sanction plan or in violation of the sanction plan. The question of title, apportionment of share etc. shall not be looked into by the municipality. With regard to the allegation of filling up the water body, the petitioner is at liberty to approach the appropriate authority under the West Bengal Inland Fisheries Act, 1984 so that appropriate actions may be taken in accordance with law. The competent authority of the municipality shall make an inspection of the property in question in the presence of the petitioner and the respondents Nos. 6 to 8. A report shall be prepared by the competent authority of the municipality. The report shall be

handed over to the parties. A hearing shall be given to the parties. A reasoned order shall be passed and communicated to all concerned. On the basis of what transpires during the inspection and the hearing, the municipality shall reach the same to its logical conclusion as per law.

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

The writ petition is disposed of.

There shall be no order as to costs.

All parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)