

12.07.2021
Sl. No.7
srm

W.P.A. No. 10852 of 2021

Bappa Pramanik
Vs.
Bidhannagar Municipal Corporation & Ors.

Mr. Shakti Nath Mukherjee,
Mr. Tarique Quasimuddin,
Ms. Sanchita Choudhuri
...for the Petitioner.
Mr. Soumyajit Das Mahapatra
...for the Respondent No.8.
Mr. Tanmoy Mukherjee
...for the Respondent No.16.
Mr. Kapil Guha
For the State.

Affidavit-of-service is taken on record.

This writ petition has been filed challenging inaction on the part of the Bidhannagar Municipal Corporation in taking steps pursuant to the complaint dated June 15, 2021 made by the petitioner to the Chairperson, Board of Administrators, Bidhannagar Municipal Corporation.

It is the contention of Mr. Mukherjee, learned Senior Advocate appearing for the petitioner, that the petitioner had filed a suit against the State for declaration and permanent injunction. The suit was decreed and the right, title and interest of the petitioner along with other plaintiffs in respect of the suit property was declared. The defendants in the suit, namely, the State of West Bengal and the Principal Secretary, Urban Development Department, were permanently

restrained from making any disturbance in the petitioner's peaceful possession of the suit property and also restrained the defendants from causing any damage and wastage of the suit property by changing nature and character. The State has preferred an appeal against the abovementioned judgment and decree.

It is submitted that during the pendency of the suit, a local club comprising of members including the respondent Nos.11 to 16 have started making illegal and unauthorised pucca construction on the suit property. It is submitted that even if the question of title to the disputed property is to be decided in the appeal, no one had any right to raise any unauthorised construction on any land. Thus, Mr. Mukherjee prays that the competent authority of the Bidhannagar Municipal Corporation should take steps to demolish any such unauthorised construction which had been raised on the disputed property.

Mr. Soumyajit Das Mahapatra and Mr. Tanmoy Mukherjee, learned Advocates appear on behalf of the respondent Nos.8 and 16 respectively. It is their submission that the club has been in possession of the property in question since 1990. The State was the owner of the suit property and no interference with the possession of the club had occurred

since its possession. They further submit that no new pucca construction on the suit land had been made by the club.

Mr. Guha, learned Advocate appearing on behalf of the State-respondents, submits that the police authority had enquired into the matter upon receiving a complaint lodged by the petitioner. Criminal cases are pending against the parties. There are cases and counter cases. Mr. Guha submits that the police authorities do not have any further role to play in the matter. A report has been submitted before this Court, which is taken on record.

Having heard the submissions made by the respective parties, this Court is of the opinion that as it is settled by several judicial decisions that no illegal or unauthorised construction at the instance of any person can be allowed to stand. The Hon'ble Apex Court in the matter of Dipak Kumar Mukherjee vs. Kolkata Municipal Corporation & Ors. reported in (2013) 5 SCC 336 held that there should not be judicial tolerance of illegal and unauthorised construction and the functionaries and officers of the Kolkata Municipal Corporation should be extremely vigilant and take steps for enforcing the provisions of law.

This writ petition is disposed of with a direction upon the Chairperson, Board of Administrators, Bidhanagar Municipal Corporation to consider the petitioner's

representation dated June 15, 2021 and dispose of the same in accordance with law upon hearing the petitioner as also the respondent Nos.11 to 16. It is also directed that a representative of the Urban Development Department, Government of West Bengal may also be called for the hearing for necessary clarification. The Chairperson, Board of Administrators shall cause an inspection in the presence of the petitioner and a representative of the respondent Nos.11 to 16 through a competent officer of the department. The report must be supplied to the parties. If it is found that there has been unauthorised construction or unauthorised construction is going on, as claimed by the petitioner since 2016, then the Municipal Corporation shall act in accordance with law.

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

This Court has not gone into the merits of the claims and counterclaims of the respective parties and the competent authority of the Bidhannagar Municipal Corporation shall deal with the matter independently but strictly in accordance with law.

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)