

S/L 1
07.12.2021
Court. No. 19
GB

WPA 14236 of 2021

Sridam Dey
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Rabindra Kumar Jaiswal.

...for the Petitioner.

*Mr. Dwaipayan Basu Mallick,
Mrs. Sudesna Das Majumder,
Mr. Arkaprava Sen.*

...for the Municipality.

*Mr. Mahendra Prasad Gupta,
Mr. Animesh Paul,
Ms. Antara Panja.*

...for the Respondent Nos.7 to 9.

The petitioner has alleged inaction on the part of the Basirhat Municipality in disposing of the complaint lodged on June 17, 2021, alleging unauthorized construction by the respondent nos.7, 8 and 9. The petitioner claims that the respondent nos.7, 8 and 9 are his relatives and they have been raising unauthorized construction on one decimal of land by forcefully building a three storied structure without a sanction plan. Accordingly, the Chairperson, Basirhat Municipality was informed of the same by the petitioner by a complaint as mentioned hereinabove.

Mr. Gupta, learned advocate appearing on behalf of the respondent nos.7 to 9 submits the copy of the sanction plan granted by the Municipality dated February 5, 2014. According to Mr. Gupta, the construction has been made

exclusively on the basis of the sanction plan. The construction was completed long ago. He further submits that a partition suit is pending between the parties.

Mr. Basu Mallick, learned advocate appearing on behalf of the Municipality submits that the contentions of the petitioner shall be looked into in accordance with law by the appropriate authority of the Municipality.

Be that as it may, the questions of encroachment, title, forceful possession as alleged by the petitioner are not to be gone into either by this Court or by the Municipality. The Municipality is only duty bound to ensure that no unauthorized construction takes place. Accordingly, the competent authority of the Basirhat Municipality is directed to dispose of the representation of the petitioner dated June 17, 2021 in accordance with law. The petitioner's complaint shall be disposed of, in the following manner:

- a) An inspection of the premises on R.S. Dag No.3249, L.R. Khatian No.9285, Mouza-Basirhat, J.L. No.43, District-North 24 Parganas, shall be conducted by the competent authority of the Municipality in the presence of the parties.
- b) Copy of the inspection report shall be supplied to the parties.
- c) The parties shall be allowed to file their written version as also adduce oral and documentary evidences in support of their contentions.

d) A hearing shall be given to the parties and a reasoned order shall be passed and communicated to all.

e) Needless to mention that the entire proceeding as initiated by the Municipality on the basis of this order shall be reached to its logical conclusion, in accordance with law.

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

This Court has not gone into the merits of the claims and counter-claims of the parties. The Municipality will decide the issue independently. The enquiry and the proceeding of the Municipality shall be restricted only to the detection of the unauthorized construction and action to be taken as per law, if any unauthorized construction is found. The Municipality shall not decide the question of title, encroachment, possession, etc. of the parties.

This order shall not have any effect on the partition suit pending between the parties.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)