

06.07.2021
Court No. 19
Item no.04
CP

WPA 14241 of 2019

Haru Karmakar & anr.

VS

Bhatpara Municipality, Municipal Building & ors.

(via video conference)

Mr. Tulshi Das Ray

Mr. Tirthankar Roy

....for the petitioners.

Mr. Rajib Mukherjee

...for the respondents.

Mr. Soumyajit Bhatta

....for the respondents 4 & 5.

The petitioners have alleged unauthorised construction by the respondents 4 and 5. The petitioners base the claim in the writ petition on the basis of a document which is a stop work notice issued by the Chairman-in-Council, Bhatpara Municipality. The petitioner contends that it was admitted by the municipal authorities that the respondents 4 and 5 were carrying on unauthorised construction and, as such, a stop work notice was issued upon the said respondents along with a further direction that if the unauthorised construction continued then the respondents 4 and 5 would be proceeded with in accordance with law. Subsequently, the petitioners also made a

representation before the chairman of the concerned municipality. It is contended by the petitioner that despite the representation and despite there being a specific direction by the municipality upon the respondents 4 and 5, the alleged illegal and unauthorised construction continues with the blessings of the municipality.

Mr. Bhatta, learned advocate appearing on behalf of the respondents 4 and 5, submits that on the direction of the municipal authorities a portion of the unauthorised construction which was done by mistake, was demolished and removed accordingly. On September 19, 2019, the municipal authority had already issued a completion certificate. The flat owners in respect of the building constructed by the respondents 4 and 5 had already taken possession. It is further submitted by Mr. Bhatta that challenging encroachment and the unauthorised construction a suit was also filed by the petitioners being Title Suit No. 172 of 2019 which was subsequently withdrawn.

The learned advocates for the municipality also adopts the contentions of Mr. Bhatta.

Be that as it may, this court is of the opinion that the petitioners should be informed of the fate of their representation. It is submitted that the representation is not traceable in the files of the municipality. The petitioners are directed to serve a

copy of the writ petition upon the municipal authorities. The chairman, Board of Administrators shall consider and dispose of the representation of the petitioner as also the respondents 4 and 5 and pass a reasoned order upon granting an opportunity of hearing to all concerned.

The above exercise should be completed within a period of six weeks from receipt of a copy of the representation of the petitioners. The chairman is directed to communicate the reasoned order to all.

This court has not decided on the merits of the claims and counter-claims in the writ petition.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)