

Item- 26-11-2021
31 BR

WPA 17512 of 2021

Anup Kumar Agarwal
Versus
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Supratim Dhar , Adv.
... for the petitioner

Mr. Debasish Ghosh , Adv.
...for the State

Ms. Shebatee Datta
... for the respondent No. 8

Mr. D.K.Mukherjee, Adv.
Mr. Rajib Mukherjee,Adv.
... for the Municipality

The writ petition has been filed alleging unauthorised construction in violation of the sanctioned building plan. The construction is allegedly going on at Holing No.303, Birla Road (Sarada Pally), Makhla , PS Uttarpara, District Hooghly.

The petitioner is aggrieved because the respondent nos. 6 to 8 have made certain constructions encroaching upon the land of the petitioner and also in violation of the sanction plan. It is further alleged that the said construction has been made in disobedience of an order of injunction passed by a learned civil court, in a suit between the parties.

Mr. Mukherjee, learned advocate appearing on behalf of the municipality submits a notice issued by the Chairperson, Board of Administrators of Uttarpara-Kotruang Municipality, from which it appears that the municipality had informed all the

parties that an inspection would be held on the premises in question on November 30, 2021 at 2.30 p.m..

The writ petition had been filed alleging inaction on the part of the municipality in disposing of the objection raised by the petitioner with regard to the alleged illegal construction.

The municipality has already taken cognizance of the objection of the petitioner and has issued a notice for holding inspection.

Thus there is no reason for this Court to keep the writ petition pending. The municipality has been empowered by the statute to deal with situations of like nature.

Under such circumstances, as the municipality has already issued a notice upon the parties intimating them that the Sub-Assistant Engineer would visit the locale for inspection on November 30, this writ petition is disposed of by directing the competent authority of the municipality to complete the inspection as per the notice in the presence of the parties. The report of the inspection shall be supplied to the parties. Thereafter, the parties shall be allowed to file their written objections/versions in respect of the issues in dispute and also to make oral submissions in support of their contentions. Upon hearing all the persons involved in the dispute and upon considering all the papers submitted by the parties in support of their respective cases, a reasoned order shall be passed and communicated to all concerned. The above enquiry and proceedings shall be restricted to the allegation of construction in violation of the plan. The question of title, encroachment etc. shall not be gone into by the municipality. If it is found that there are unauthorised constructions in violation of the plan, the

municipality shall reach the proceedings to its logical conclusion.

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

Petitioner will also be at liberty to approach the civil court with regard to the allegation of violation of the injunction order.

Accordingly, W.P.A. No. 17512 of 2021 is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar , J.)