

03.12.2021
Court No. 19
Item no.07
CP

WPA 18284 of 2021

Tapan Kumar Laga
Vs.
The State of West Bengal & ors.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. D. Ganguly
Mr. K. Bhattacharya

.....for the petitioner.

Mr. Srijan Nayak
Ms. R. Maitra

....for the State.

Mr. S. Adak

...for the municipality.

Mr. D. Banerjee
Ms. Sreetama Neogi

.....for the respondents 9, 10 & 11.

The Sub-Divisional Officer, Arambagh, Hooghly has filed a report. The same is taken on record. It appears from the said report that pursuant to the direction of this court, the authorities of the Arambagh Municipality called upon both the parties to explain their conduct. It appears that the municipal authorities have fixed December 13, 2021 for holding a joint inspection and field measurements of the premises.

Although, I agree with Mr. Mukherjee, learned advocate for the petitioner, that the field

measurement as envisaged by the notice dated November 30, 2021 would not be useful or relevant in the context, yet I find that the municipal authorities had decided to take steps in accordance with law, on the complaint of the petitioner.

Mr. Adak, learned advocate appearing for the Arambagh Municipality, submits before the court that the municipality shall act and proceed in accordance with law.

Mr. Nayak, learned advocate files a further report from the police authorities. The same is taken on record. It appears that the police authorities have categorically stated that they would ensure that the 'Stop Work Notice' was not violated. It also appears that a prosecution case under Section 107/116(3) of the Code of Criminal Procedure had also been submitted before the competent court.

Having considered the rival contentions of the parties, this court is of the opinion that as the municipal authorities have already decided to take steps in accordance with law, nothing further remains to be decided in this writ petition.

Mr. Banerjee, learned advocate appearing on behalf of the respondent nos. 9, 10 and 11, submits that no new construction is going on pursuant to the directions of the municipality. The work has been stopped. Some labourers are residing in the said

premises, but they have been instructed not to carry on with the construction work.

The writ petition is disposed of with a direction upon the competent authority of the Arambagh Municipality to hold an inspection of the premises in question in order to ascertain whether there is any unauthorized construction. The inspection shall be restricted to the issues as to whether there has been any construction in deviation of the sanction plan or in deviation of the building rules. Encroachment, possession and measurement of the lands etc. are not required to be gone into except as may be necessary for holding the inspection and measure the unauthorized portion of the construction.

The parties have already been given the notice of inspection. No further notice of inspection shall be given. The report shall be prepared by the authorities and handed over to the parties. The parties shall be at liberty to file their written versions to the said report.

Thereafter, a hearing shall be given to the parties and the parties shall be allowed to adduce necessary evidence in support of their contentions, at the hearing. The parties shall be entitled to be represented by their learned advocates.

Upon conclusion of the hearing, a reasoned order shall be passed and communicated to all.

Needless to mention, the authorities shall act and proceed in accordance with law and independently and reach the proceedings to its logical conclusion in terms of the provisions of the statute.

The court has not gone into the correctness of the claims and counter-claims of the parties.

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

The writ petition is thus disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)