

24.02.2022
Sl. No.15
srm

W.P.A. No. 101 of 2022

Abul Kalam & Anr.

Vs.

State of West Bengal & Ors.

Mr. Subhasish Pachhal

...for the Petitioners.

Mr. Ayan Banerjee,

Ms. DEbasree Dhamali

...for the Bally Municipality.

Mr. Sudipto Panda,

Mr. Sajal Kumar Pandit

...for the State-respondents.

Affidavit of service is taken on record.

From the affidavit of service, it appears that all postal articles sent to the respondent Nos.7 to 12 have returned with the endorsement "Left". The envelopes are taken on record.

It is submitted that the said respondents are raising constructions at Premises No.144, Girish Ghosh Road, Ghusuri, Howrah, which is their residential address, but have intentionally not accepted the service by influencing the postal authorities to endorse the postal articles as "Left".

Vakalatnama filed in Court today on behalf of the Bally Municipality is taken on record.

In any event, this Court is of the opinion that the matter can be disposed of in the absence of the said respondent Nos.7 to 12. The allegations are of unauthorised construction.

Learned Advocate for the Bally Municipality is present before the Court. He submits that after receiving the complaint a preliminary inspection was made and a stop work notice was issued on December 27, 2021.

Mr. Panda, learned Advocate appearing on behalf of the State-respondents, submits a police report. It appears that on the basis of the complaint of the petitioners dated December 17, 2021, the police visited the site and intimated the matter to the Bally Municipality and thereafter the stop work notice was issued. The police again inspected the site and found that for the present, no construction was going on. This is disputed by Mr. Pacchal, learned Advocate appearing on behalf of the petitioners.

Thus, this Court is of the opinion that once the Municipality has issued a stop work notice, nothing remains to be decided by this Court. The competent authority of the Bally Municipality is directed to act and proceed in accordance with law and in the manner stated hereinbelow:

- (a) The competent authority of the Bally Municipality shall cause an inspection of the premises in question in the

presence of the interested parties including the petitioners and the respondent Nos.7 to 12 in order to ascertain whether there has been any unauthorised construction and also to ascertain the extent and nature of the unauthorised construction, if any, within three weeks from date.

- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioners as also the respondent Nos.7 to 12 shall be given a hearing.
- (d) The interested persons shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the time of hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention, the entire proceedings, so initiated, shall be reached to its logical conclusion.
- (g) If the construction is continuing, then interim measures shall be taken.

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

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the Bally Municipality.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)