

04.05.2022  
Sl. No.35  
ss

W.P.A. 147 of 2022

**Saktipada Ghorai**  
**Vs.**  
**The State of West Bengal & ors.**

Mr. Jit Ray  
Mr. Niladri Khanra  
... for the petitioner

Mr. Riju Bhaumik  
Mr. Sauradeep Dutta  
Ms. Mina Biswas  
... for the respondent nos.2 to 5

Despite service none appears on behalf of the respondent nos.7, 8 and 9.

The writ petition is disposed of in their absence as this Court is not inclined to pass any mandatory directions, which shall adversely affect the rights of the respondent nos.7 to 9, immediately.

The petitioner alleges that the respondent nos.7 to 9 have made certain unauthorised construction adjacent to premises No.52, Manmatha Nagar, Dankuni, Hooghly, by covering a municipal drain and also upon the boundary wall surrounding the said plot.

It is further alleged that an inspection was conducted by the authorities of the Dankuni Municipality but neither any inspection report was supplied nor any hearing was held for adjudication

of the issue. Hence this writ petition has been filed for appropriate reliefs.

Mr. Sauradeep Datta, learned Advocate appearing on behalf of the Dankuni Municipality submits a report prepared by the Executive Officer of Dankuni Municipality indicating that the parties were called for a hearing, but they failed to appear.

This Court is of the view that the complaint lodged by the petitioner must be disposed of in accordance with law. While doing so, adequate opportunity must be given to the respondent nos.7 to 9.

The complaint of the petitioner has been annexed to the writ petition, being annexure P4 dated September 27, 2021, written by the learned Advocate of the petitioner. The said complaint shall be disposed of by the competent authority of the Dankuni Municipality by adopting the following procedure:-

- a) An inspection of the premises shall be conducted.

Such inspection shall be held in the presence of the petitioner and the respondent nos.7 to 9, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.7 to 9. If the parties are not available to accept notice, the authorities shall

affix the notices of hearing and inspection at conspicuous places in their respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take interim measures by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report, if prepared, shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent nos.7 to 9. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by the parties shall be decided. All documents filed by the parties, if any, shall be exchanged.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion, in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved

shall be decided independently. The question of title, boundary dispute and allegation of encroachment shall not be gone into. This enquiry shall be restricted to the allegations of construction in violation of the plan and in violation of the rules.

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

With the above observations, this writ petition is disposed of.

However, there will be no order as to costs.

Report submitted by the Executive Officer, Dankuni Municipality is kept on record.

All the parties are directed to act on the basis of the learned advocate's communication.

**(Shampa Sarkar, J.)**