

Sl. No.21
18.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 582 of 2020

Mustak Ahamed @ Mustaque Ahmed & Ors.
Versus
The State of West Bengal & Ors.

Mr. Prasanta Kumar Banerjee
Ms. Indrani Nandi

... for the petitioners

Mr. Somnath Roy

... for the Bhadreswar Municipality

The petitioners allege illegal and unauthorised construction at the instance of the private respondents at 66, Ferryghat Street, Post Office-Telenipara, Police Station –Bhadreswar, District-Hooghly under the jurisdiction of Bhadreswar Municipality.

The petitioners claim that there is already an order of injunction passed by the learned Civil Judge, Senior Division at Chandernagore in T.S case No.119/19 / (T.S. 473/15) Jamil Ahamed & Ors. vs. Saniban Bibi & Ors., wherein the parties have been directed to maintain status quo with regard to the existing nature, character, possession and transfer of the suit property.

The petitioners allege that the private respondents are merrily carrying on unauthorised construction over the said suit property without obtaining any sanction from the Bhadreswar Municipality.

The petitioners through their learned advocate filed representation before the Bhadreswar Municipality and allege that the said representation has not been taken up for consideration till date. The said representation was received by the Municipality on 9th December, 2019.

None appears on behalf of the private respondents despite service.

Affidavit of service filed in Court is taken on record.

Accordingly, the instant writ petition is disposed of directing the Chairman, Bhadreswar Municipality to take steps to consider and dispose of the representation and the notice demanding justice dated 18th December, 2019, which was filed on behalf of the petitioners on 9th December, 2019 at the earliest, after giving opportunity of hearing to the petitioners and all other necessary parties.

The aforesaid respondent shall pass a reasoned order upon consideration of the representation positively within a period of three months from the date of communication of this order.

The said respondent shall communicate the reasoned order to all the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be

taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merit of the claim of the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate for the petitioners is directed to forward copy of the order passed by the learned Civil Judge, Senior Division, Chandernagore, representation dated 9th December, 2019 and the notice demanding justice dated 18th December, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)