

08.03.2022
Court No. 19
Item no.08
CP

WPA No. 1392 of 2022

Smt. Trishna Ghosh
Vs.
The State of West Bengal & ors.

Mr. Sandip Ghosh
Ms. M. Chatterjee
Mr. Partha Sarkar

.....for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka

....for the Howrah Municipal Corporation.

Mr. Ayan Banerjee
Mrs. D. Dhamali

....for the Bally Municipality.

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

.....for the respondent nos. 6 & 7.

Mr. Debojit Samanta

....for the State.

The confusion of the court with regard to who was to decide the issues raised in the writ petition has been resolved after Mr. Sandipan Banerjee, learned advocate and Mr. Ayan Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation and Bally Municipality respectively. Mr. Sandipan Banerjee submits that the Administrator of the Bally Municipality can deal with the issues with regard to unauthorized construction

and the Howrah Municipal Corporation does not have a role to play in that regard.

Mr. Ayan Banerjee also submits that the Bally Municipality shall proceed in accordance with law on the basis of the provisions of the West Bengal Municipal Act, 1993.

Mr. Debjit Mukherjee, learned advocate appearing on behalf of the respondent nos. 6 and 7, submits that the Bally Municipality has already intimated his clients about the pending complaint of the writ petitioner. Mr. Mukherjee further submits that the respondent nos. 6 and 7 have also filed an objection with regard to certain constructions made by the writ petitioner.

Be that as it may, as the learned advocates submit before this court that the Bally Municipality is the authority who shall decide the issues raised both by the petitioner and the respondent nos. 6 and 7, nothing further remains to be decided in the writ petition, save and except, that the competent authority of the Bally Municipality, i.e. the Administrator shall act and proceed in accordance with law on the basis of the complaints filed by the writ petitioner and the respondent Nos. 6 and 7 and reach the same to their logical conclusions by adhering to the following procedure:-

- a) Two demolition cases will be started and heard analogously. Inspections of the sites shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent nos. 6 & 7.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the constructions were without permission and were continuing, the authorities may take such interim measures by stopping such constructions.
- c) Two reports of the inspections of the two sites shall be prepared along with the sketch maps indicating the extent of deviations, if any.
- d) All the reports shall be handed over to the petitioner as also the respondent nos. 6 & 7.
- e) A hearing shall be given to the petitioner and the respondent nos. 6 & 7. The parties must also be allowed to furnish their written objection/version to the reports and adduce oral and documentary evidence in support of their contentions before the competent authority.

f) Reasoned orders 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 their 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 shall be decided independently.

The entire exercise shall be completed within a period of four 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.)