

28.02.2022
Court No. 19
Item no.09
CP

WPA No. 1592 of 2022

Ganesh Chandra Patra
Vs.
The State of West Bengal & ors.

Mr. Debasish Ghosh
Mr. Nilanjan Adhikari
Mr. Subhajit Roy

....for the petitioner.

Mr. Jahar Lal De
Mrs. Smita Das Dey

....for the State.

Mr. Debabrata Saha Roy
Mr. Arka K. Nag
Mr. Subhankar Das

....for the Bidhannagore Municipal
Corporation.

Mr. Goutam Misra
Ms. P. Nandy

....for the private respondents.

The writ petition has been filed alleging inaction of the authorities of the Bidhannagore Municipal Corporation (hereinafter referred to as 'the corporation'). It appears that the petitioner has been complaining of unauthorized construction by the respondent nos. 11 and 12 before the corporation for some time. It also appears that in the earlier rounds of litigation, orders have been passed upon the corporation to take steps under the law, against any illegal construction.

The allegations are with regard to constructions on an adjacent plot to the plot of the petitioner situated at Krishnapur, Mandolpara, Chandberia Main Road, P.O. – Ghosh Para, P.S. – Baguiati, District – North 24 Parganas, Pin – 700102.

This writ petition has been filed alleging that further constructions subsequent to the earlier rounds of litigation have been raised. There is already an order of demolition passed by the corporation, under Section 287 of the West Bengal Municipal Corporation Act, 2006. In the said order, the nature and extent of unauthorized construction has been specifically mentioned by the Commissioner of the corporation.

It is the contention of the petitioner that alleging inaction of the corporation a contempt application had been filed before a coordinate bench of this court with regard to the earlier proceedings. A coordinate bench was of the opinion that the corporation had substantially complied with the order of this court by passing the order of demolition and granted further leave to the petitioner to prefer another application for contempt, if the demolition was not effected. The second contempt application has been filed.

Mr. Misra, learned advocate appearing on behalf of the respondent nos. 11 and 12, submits

that the order of demolition was an *ex parte* order and an appeal therefrom was preferred before the Mayor. He further submits that at the instance of the petitioner, another coordinate bench of this court directed that the appeal should be disposed of. He further submits that only repairing work had been done subsequently and the same was within the knowledge of the corporation.

The law has since been amended and it is not clear before the court whether the appeal was filed prior to the amendment of the law.

Mr. Saha Roy, learned advocate appearing on behalf of the corporation, submits that the earlier order of demolition has not been given effect to in view of the pending litigation.

In view of the liberty granted to the petitioner to prefer a contempt application, this court must not interfere with the proceedings which were held earlier and are before His Lordship. The allegation of the petitioner of further constructions, which do not form a part of the earlier order of demolition, is taken up for consideration.

The writ petition will be confined to only the allegations of subsequent unauthorized construction. In the complaint filed by the petitioner, the extent and nature of subsequent construction is not clear and there is a general and vague mention about

some unauthorized construction. Thus, in view of insufficient pleadings, the writ petition is disposed of without any order.

The petitioner is granted liberty to bring to the notice of the corporation the alleged subsequent constructions which have, according to them, been done after the earlier order of demolition dated February 9, 2018. If such complaint is lodged, the corporation will proceed according to law.

Accordingly, the writ petition is disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)