

21.02.2022
Sl. No.20
srm

W.P.A. No. 2090 of 2022

Dr. Partha Sarathi Ray

Vs.

The Bidhannagar Municipal Corporation & Ors.

Mr. Nirmalya Dasgupta,
Mr. R.L. Mitra,
Mr. Ovik Sengupta

...for the Petitioner.

Mr. Debabrata Saha Roy,
Mr. Arka Kumar Nag,
Mr. Subhankar Das

...for the Bidhannagar
Municipal Corporation.

Mr. Sayantan Bose,
Ms. Anyapurba Banerjee,
Mr. Sarbajit Mukherjee

...for the Respondent No.7.

Affidavit of service is taken on record.

The petitioner alleges that the respondent No.7 has raised some unauthorised constructions inside Premises No.DB-1, Salt Lake City, Sector-I, Kolkata-700064. The petitioner claims to be one of the co-owners of the said property. It is further contended that the respondent No.7 has covered the property from outside, as a result of which, the rampant building and re-building work which has been going on inside the premises, could not be detected. It is further submitted that the Corporation must be directed to

take immediate steps against such unauthorised construction.

Mr. Bose, learned Advocate appearing on behalf of the respondent No.7, denies that the petitioner is a co-sharer of the property. He submits that the parents of the parties had died testate leaving behind their wills, bequeathing their property to the respondent No.7. Thus, according to the respondent No.7, the petitioner did not have any right, title and interest in the said property and has filed the writ petition to arm-twist the respondent No.7 into allowing him to use the property. Mr. Bose further contends that a civil suit is also pending with regard to the selfsame property in question and the writ Court must not interfere in this proceeding.

The learned Advocate for the Corporation submits that on the basis of the complaint received, the Corporation had attempted to inspect the premises on several occasions, but the door was found lock.

Be that as it may, the disputed questions of facts with regard to the right, title, interest and possession of the property in question, cannot be decided either by the writ Court or by the Corporation.

All that the Corporation can enquire and decide upon hearing all the parties would be, whether any construction had been done in the property in question, in violation of the plan, the building rules or without permission from the authorities. The other factor which the Corporation must adjudicate is whether the change of user of property from residential to commercial had been made.

There is an allegation of unauthorised construction and of building, re-building and re-construction. The Court deems it necessary to direct the competent authority of the Corporation to adjudicate the entire issue in accordance with law and while doing so, the competent authority of the Bidhannagar Municipal Corporation, shall proceed in the manner stated hereinbelow:

- (a) The competent authority of the Bidhannagar Municipal Corporation shall cause an inspection of the premises in question in the presence of the interested parties including the petitioner and the respondent No.7 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 the date.

- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioner as also the respondent No.7 shall be given a hearing.
- (d) All 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 Bidhannagar Municipal Corporation.

The parties will be entitled to represent before the authority at every stage either personally or through their respective learned Advocates.

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.)