

14.01.2022
Item No.6
srm

W.P.A. No. 3356 of 2021

Jayanta Shaw

Vs.

The State of West Bengal & Ors.

Mr. Prasanta Kumar Banerjee,

Mr. Indranil Nandi,

Ms. Krishna Yadav

...for the Petitioner.

Mr. Sayan Sinha

...for the Bongaon Municipality.

Despite service, none appears on behalf of the respondent Nos.7 to 11. Affidavit of service is taken on record.

The petitioner has alleged that the respondent Nos.9, 10 and 11 have made certain unauthorised construction on an undivided portion of land being Holding No.177/A/70/F, R.D.B. Road, Bongaon, District-North 24-Parganas. It is alleged that complaints have been made before the Bongaon Municipality but the municipality has not taken any steps in this regard.

Mr. Sinha, learned Advocate appearing on behalf of the Bongaon Municipality, submits that this is an undivided land and a civil suit is pending between the parties. He further submits that the municipal authorities shall dispose of the complaints lodged by the petitioner in accordance with law.

Having considered the rival contentions of parties, this writ petition is disposed of granting liberty to the petitioner to file a fresh complaint indicating his grievances before the competent authority of the Bongaon Municipality within two weeks from date. Upon receipt of the same, the appropriate authority of the municipality shall dispose of the complaint in the manner prescribed hereinbelow:

- (a) The competent authority of the Bongaon Municipality shall cause an inspection of the premises in question in the presence of all the interested parties in order to ascertain whether there are any unauthorised constructions and also to ascertain the extent and nature of the unauthorised constriction, if any.
- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioner as also the respondent Nos.9 and 10 shall be given a hearing.
- (d) The parties shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.

(f) Needless to mention that the entire proceedings shall be reached to its logical conclusion in terms of the provisions of the West Bengal Municipal Act.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight months from the date of communication of this order.

It is made clear that the question of title, encroachment, boundary disputes, etc. shall not be gone into by the municipal authorities. The enquiry of the municipal authorities will be limited to the question as to whether construction has been made in the absence of any permission and/or in deviation of the permission and the rules. While disposing of the complaint, if it is found that the construction is going on illegally, the municipal authorities shall be at liberty to impose restrictions and take such interim measures as permitted under the law.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the municipal authorities, independently.

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.)