

Sl. No.98
(Monthly List)
05.07.2022
Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4467 of 2021

Noaman Zahedi

v.

State of West Bengal & Ors.

Mr. Nilanjan Chatterjee

... for the petitioner

Mr. Subhasis Bandopadhyay

... for the Municipality

Leave granted to the learned advocate on record of the petitioner to implead the Chairman of Burdwan Municipality as party respondent in the instant writ application.

The formality of serving a copy of the writ petition upon the added respondent stands dispensed with as learned advocate has already entered appearance on behalf of the Burdwan Municipality.

None appears on behalf of the private respondents despite service.

Affidavit of service filed in Court is taken on record.

The petitioner alleges illegal and unauthorised construction by the private respondents.

In compliance of the order passed by the Court on 25th June, 2019 in the earlier writ petition filed by the petitioner being WP No.4115 (W) of 2019 the Burdwan

Municipality conducted an inspection and afforded opportunity of hearing to all the parties.

A formal order has been passed and communicated to the parties by the Municipality on 3rd August, 2019.

The order of the Administrator, Burdwan Municipality and the Sub Divisional Officer, Sadar, North Burdwan mentions that during field inspection two new constructions were found, one made by Alamgir Mallick and the other made by Golam Kibria, i.e. the private respondents herein, and both the construction has been made without obtaining any plan from the Municipality.

The Municipality directed the aforesaid respondents to demolish the unauthorised construction within fifteen days from the date of receiving the notice failing which the Municipality shall demolish the same and recover the costs of demolition from the private respondents as per norms.

The petitioner submits that the private respondents have not yet demolished the unauthorised construction and the Municipality has also not taken any steps for demolishing the same.

The petitioner prays for implementation of the order of demolition passed by the Administrator of the Municipality.

Learned advocate representing the Burdwan Municipality seeks time to implement the order of demolition.

As it appears from records that the Municipality already afforded opportunity of hearing to the parties and have held a spot inspection and concluded that there has been unauthorised construction, accordingly, the Municipality ought to execute the order of demolition that has been passed. The time given by the Municipality for self demolition of the unauthorised construction is long over. It is time that the Municipality starts the demolition process and recover the costs of demolition from the persons responsible for making such unauthorised construction.

The Municipality is directed to execute the order of demolition at the earliest but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)