

S/L 7
14.03.2022
Court. No. 19
GB

W.P.A. 3834 of 2022

Pradip Kumar Roychowdhury
VS
Dum Dum Municipality & Ors.

*Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Mr. D. Ghanguly,
Mr. K. Bhattacharya.*

...for the Petitioner.

*Mr. Amal Kumar Mukhopadhyay,
Mr. Debabrata Roy,
Mr. Arnab Roy.*

...for the Respondent No.5.

The petitioner has alleged inaction on the part of the Dum Dum Municipality. The petitioner submits that some unauthorized constructions have been going on at the instance of the respondent no.5 at Holding No.23 (now renumbered as Holding No.211), P.K. Guha Road, Ward No.9 under Dum Dum Municipality.

It is submitted by the petitioner that the petitioner resides on the first floor and the alleged construction is being carried on, at the second floor. Reliance has been placed on some orders already passed by this Court as also by the Dum Dum Municipality in this regard.

However, without going into the merits of the claims and counter-claims of the parties, this Court is of the opinion that law empowers the municipality to deal with the complaints of unauthorized constructions and as such, the Court directs the competent authority of the Dum Dum Municipality to dispose of the representation of the petitioner, which has been annexed to the writ petition at

page 32 thereof, in accordance with law. The question of title, encroachment, boundary dispute shall not be gone into.

While disposing of the representation of the petitioner, the municipality shall adhere to the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.5, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.5. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent no.5. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by either party, shall be decided.

f) A reasoned order 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 its 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 involved shall be decided independently and the proceedings which have been initiated by the police authority shall proceed in accordance with law and reached to its logical conclusion.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocates' communication.

(Shampa Sarkar, J.)