

S/L 22
11.05.2022
Court. No. 19
GB

WPA 4112 of 2022

Manisha Samanta & Ors.
VS
The State of West Bengal & Ors.

Ms. Pinki Saha

...for the Petitioners.

Mr. Dilip Kumar Maity.

...for the Respondent No.10.

Affidavits-of-service filed in Court today, be kept with the record.

Despite service none appears on behalf of the respondents, except the respondent no.10.

The allegation of the petitioners is that the Contai municipality has not taken adequate steps to ensure that the respondent no.9 abides by the stop work notice issued on December 7, 2021. Further allegation is that, although the municipal authorities having found that unauthorized construction has been going on at Holding No.280/528 under Ward No.XVI of Mouza-Athilagori, no steps have been taken for demolition of the same.

The respondent no.10 also supports the contention of the petitioners. The petitioners and the respondent nos.9 and 10 are co-sharers of the property in question.

This Court is of the view that as the municipality has already issued a stop work notice and has taken cognizance of the complaint of the petitioners, no useful purpose will be served in keeping the writ petition pending.

Admittedly, the tenure of the board of administrators expired and the new board of councilors have been elected. The Board has taken charge.

Accordingly, the writ petition is disposed of with a direction upon the competent authority of the Contai municipality to dispose of the complaints of the petitioners dated December 4, 2021 and January 21, 2022 in accordance with law and reach the proceeding to its logical conclusion. While doing so, the competent authority shall adopt the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.9 and 10. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.9 and 10 and all other interested parties. If the parties are not available to accept notice, the authorities shall affix the notice 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 petitioners and the respondent nos.9 and 10. 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, will 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 the issues involved shall be decided independently.

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

The petitioners are directed to serve a copy of the writ petition along with a server copy of this order upon the Board of Councilors and the Chairman of the municipality for necessary compliance of this order.

Till the matter is decided by the authority, no further construction shall take place.

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.)