

13.01.2022
Court No. 19
Item no.09
CP

WPA 5096 of 2021

Biswanath Chakraborty
Vs.
The State of West Bengal & ors.

Mr. Atis Kr. Biswas
Mr. Amit Singh
Ms. Jyoti Agarwal

.....for the petitioner.

Mr. Manoj Malhotra
Mr. M. M. Rahaman

....for the State.

Mr. Sankar Halder

.....for the municipality.

Affidavit of service is taken on record. None appears on behalf of the respondent Nos.7 and 8. It appears that a copy of the writ petition was served upon all the respondents. When the matter was mentioned, the respondent Nos. 7 and 8 were served with a notice. Thereafter, the respondents were again intimated about the enlisting of the matter. Thus, this court does not find any reason to keep the matter pending. The order to be passed by this court will afford sufficient opportunity to the respondent Nos. 7 and 8 to make their submissions before the authority concerned and no ex-parte proceeding will be initiated.

The petitioner alleges that the respondent Nos. 7 and 8 have raised certain unauthorized

construction without any permission from the Krishnanagar Municipality (hereinafter referred to as the municipality). The petitioner relies on an information received under the Right to Information Act, dated January 18, 2018, which inter alia, states that no building plan had been sanctioned by the municipality in favour of the respondent no. 8 and another Subodh Pal. According to the petitioner, the respondent no. 8 and his son have raised unauthorized construction by constructing the entire ground floor on the plot adjacent to the plot owned by the petitioner, without any permission.

Complaints have been lodged by the petitioner before the municipality with regard to the alleged unauthorized constructions by the respondent Nos. 7 and 8. It is the bounden duty of the municipality to look into such grievances and pass necessary orders by taking steps as per law.

Under such circumstances, the writ petition is disposed of granting liberty to the petitioner to make a fresh complaint before the concerned authorities of the municipality. The said representation shall be made within two weeks from date.

Upon receiving the said representation, the municipal authorities shall act and proceed in accordance with law by adhering to the following directions:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondents 7 and 8.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondents 7 and 8.
- d) A hearing shall be given to the petitioner and the respondents 7 and 8. 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.
- e) 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 merit of the claims and counter-claims of the parties and the issues shall be decided independently.

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.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)