

S/L 45
11.07.2022
Court. No. 19
GB

CPAN 185 of 2021
In
WPA 7032 of 2020

Sobhon Roy
VS
Amitava Sarkar, the Executive Engineer, Panihati
Municipality

Mr. Ranjan Kali,
Mr. Sobham Kr. Pathak.

...for the Petitioner.

Mr. Soumajit Bhatta.

...for the Alleged Contemnor.

The order passed by the Chairman, Panihati municipality dated July 4, 2022, is taken on record.

The fact that the construction was done under the Housing For All Scheme, had already been urged before this Court and when the order dated October 20, 2020 was passed in WPA 7032 of 2020, this Court had directed the municipal authorities to make an inspection and ascertain whether the construction was done according to the Rules.

According to Mr. Bhatta, the construction under the Housing For All Scheme, is not guided by the Municipal Building Rules, but by a separate set of drawings, which are provided as per the scheme. The municipality can ascertain only whether the drawing has been followed or not. The writ petition was filed alleging that adequate space had not been kept by Pintu Roy, while raising the construction. As per the order of the court, inspection was made, parties were heard and it was found that adequate side space was available to the petitioner.

In the contempt jurisdiction, the scope for interference by this Court is limited. Only when there is deliberate and wilful violation of the order of the court, can the alleged contemnor be punished. The Chairman made an inspection, heard the parties and passed the order. The correctness of the order and the non-consideration of relevant factors by the Chairman, cannot be gone into in this proceeding. Whether there was a mutual agreement or whether 4 ft. side space was enough for the ingress and egress of the petitioner, are matters to be decided in an appropriate proceeding.

The petitioner is at liberty to challenge the order, in an appropriate proceeding.

The allegation of encroachment has to be decided by a civil court.

Accordingly, the contempt application is disposed of.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)