

Item No. 4

29.06.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3781 of 2020
Purnima Ghosh

v.

State of West Bengal & Ors.

Mr. Syamal Kumar Das
Ms. Smita Pal
Mr. Krishna Yadab
... for the petitioner.

Mr. Jahar Dutta
Mr. Bipin Ghosh
... for the State respondents.

None appears either on behalf of the Serampore Municipality or the respondent no. 6 despite service.

Affidavit-of-service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction by the respondent no. 6 in respect of the premises No. 57, Panchanan Tala Lane, Serampore.

After service of a copy of the writ petition upon the Municipality the Chairperson, Board of Administrators, Serampore Municipality by a communicating letter dated August 12, 2021 intimated the parties i.e. the petitioner as well as the respondent no. 6 that an enquiry will be made by the men and agents of the Serampore Municipality on August 16, 2021 to ascertain the allegation of illegal and unauthorized construction which

has been lodged by the petitioner. The parties were requested to remain present at the aforementioned holding on the said date at a specified time along with all the relevant papers/documents.

Learned advocate for the petitioner submits that a spot inspection was duly conducted. The notice of inspection has been filed before this Court by way of supplementary affidavit. The same is taken on record.

A further notice dated November 16, 2021 being Memo No. 1322/PW-63 thereafter issued by the Chairperson, Board of Administrators, Serampore Municipality to the respondent no. 6 with a copy to the petitioner herein is produced before this Court.

It appears therefrom that during the inspection on August 16, 2021 it was found that the respondent no. 6 constructed beyond the approved plan measuring 2ft. 6 inch in length in the eastern side of the holding. The Municipality directed the person responsible to remove the said illegal construction immediately, failing which, action will be taken under the appropriate Section i.e 218 of the West Bengal Municipal Act, 1993.

Learned advocate for the petitioner submits that after issuance of the aforesaid notice dated November 16, 2021 neither the person responsible for making unauthorized construction removed the same nor did the Municipality initiate proceeding under Section 218 of the West Bengal Municipal Act, 1993 for removal of such unauthorized construction.

As it appears from the documents produced before this Court that the Municipality has already inspected the property in question and has come to a specific finding that there has been illegal construction and directed the person responsible to demolish the said illegal construction, accordingly, it is incumbent for the Municipality to proceed with the matter and to ensure that the same is concluded strictly in accordance with the provision of Section 218 of the West Bengal Municipal Act, 1993.

As no further step was taken by the Municipality under Section 218 of the Act of 1993, accordingly, the instant writ petition is disposed of by directing the Serampore Municipality to take appropriate steps in terms of Section 218 of the West Bengal Municipal Act, 1993 at the earliest and conclude the proceeding positively within a period of four months from the date of communication of a copy of this order after giving reasonable opportunity of hearing to all the necessary parties including the petitioner.

The notice dated November 16, 2021 issued by the Chairperson of the Board of Administrators, Serampore Municipality is retained with the records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.