

S/L 21
04.05.2022
Court. No. 19
GB

WPA 5764 of 2021

Akhil Kumar Bandopadhyay @ Bandopadhaya
VS
The Durgapur Municipal Corporation & Ors.

Mr. Pinaki Chakraborty.

...for the Petitioner.

*Mr. Sandipan Banerjee,
Mr. Sobham Majumder.*

...for the Corporation.

The petitioner is aggrieved by an order dated February 9, 2021 issued by the Commissioner, Durgapur Municipal Corporation. It appears that the petitioner was asked to demolish certain structures, which were extensions of the building in the rear and front side, without approval or sanction from the Corporation. The petitioner was asked to demolish such extensions/unauthorized constructions within 10 days from receipt of the said notice, failing which, strict actions would be taken for non-compliance.

The petitioner refers to the documents, which would indicate that the Assansol Durgapur Development Authority had granted necessary permission for land use. Thereafter the plan was approved by the Durgapur Municipal Corporation. The construction was completed seven years ago and a completion certificate was granted accordingly by the Commissioner, Durgapur Municipal Corporation on March 11, 2015.

Suddenly, the petitioner was served with the notice of demolition without any prior intimation or hearing. Records

also reveal that the Corporation has been accepting the municipal taxes.

It is not in dispute that the Corporation has the authority to proceed against any unauthorized construction. However, such exercise of power has to be made strictly in accordance with law. The petitioner was neither heard nor notified with regard to such constructions, which according to the authorities were detected to be unauthorized seven years after the completion certificate was issued.

Under such circumstances, the impugned notice dated November 9, 2021 is set aside.

The Corporation is granted liberty to act and proceed in accordance with law and reach the proceeding to its logical conclusion. However, the authority must cause an inspection of the alleged construction, in the presence of the petitioner and other interested parties, if any, and thereafter prepare a report. The report must be supplied to the parties. The proceeding shall be concluded upon hearing the parties and upon granting an opportunity to the parties to respond to the report prepared by the authority, in this regard.

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 advocate's communication.

(Shampa Sarkar, J.)