

17.01.2022
Court No. 19
Item no.24
sn

WPA 5990 of 2021

Anowar Ali Molla
Vs.
The State of West Bengal & ors.

Mr. Sarwar Jahan
Mr. Maidul Islam Kayal
.....for the petitioner.

Mr. Santanu Kumar Mitra
Mr. Mirza Kamruddin
....for the State.

Mr. Raghunath Chakraborty
.....for the municipality.

Despite service, none appears on behalf of the respondent no.9. Affidavit of service is taken on record.

The matter is taken up in the absence of the respondent no.9 as no mandatory directions are being passed affecting his right.

The petitioner has alleged unauthorised construction by the respondent no.9. Records reveal that the Sub-Assistant Engineer, In-Charge of the Building Department, Maheshtala Municipality has already taken steps in the matter and issued a stop work notice against such construction on January 19, 2021. As the municipal authorities have already taken steps in the matter, no further order need be passed in the writ petition save and except that the

competent authority of the municipality shall reach the proceeding to its logical conclusion 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 respondent no. 9.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation and/or unauthorized construction if any.
- c) Such report shall be handed over to the petitioner as also the respondent no.9.
- d) A hearing shall be given to the petitioner and the respondent no.9. 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 merits 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.)