

06.07.2022
rc/ct.no.24
Item No.ML-110

WPA No. 5997 of 2021
Anisuddin Ahmed & Anr.
Versus
The Burdwan Municipality & Ors.

Mr. Chirantan Sarkar ...for the Petitioners

Mr. Subhasis Bandyopadhyay
...for the Burdwan Municipality

Affidavit of service and supplementary affidavit filed in Court today are taken on record.

Leave is granted to the learned advocate of the petitioner to implead the Chairman, Burdwan Municipality as party respondent in the instant writ application. The formality of serving a copy of the writ petition upon the Chairman, Burdwan Municipality stands dispensed with as learned advocate has already entered appearance on behalf of the Burdwan Municipality.

The petitioner alleges illegal and unauthorised construction by the respondent no. 5. The petitioner made a representation before the Administrator of the Burdwan Municipality on 29.08.2019 and submitted further reminder on 05.12.2019.

On receipt of the complaint from the petitioner the Executive Engineer, Burdwan Municipality issued a stop work notice on 13.12.2019. The petitioner submits that despite the stop work notice, the private respondent continued with the unauthorised construction.

Learned advocate representing the Burdwan Municipality submits that a stop work notice has already been issued on receipt of the complaint from the petitioner. It has, however, been submitted that there after the matter was not proceeded with.

As it appears that the Burdwan Municipality has already issued stop work notice on receipt of the complaint from the petitioner, it is incumbent that the Burdwan Municipality concludes the proceeding strictly in accordance with law, within a period of twelve weeks from the date of communication of this order. The issue of unauthorised construction shall be decided by the Chairman, Burdwan Municipality after giving reasonable opportunity of hearing to all the necessary parties.

The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 05.12.2019 along with a copy of the stop work notice dated 13.12.2019 to the Chairman of the Municipality at the time of communicating the order of this Court.

Writ petition is disposed of.

There shall be, however, no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Amrita Sinha,J)