

S/L 12
12.05.2022
Court. No. 19
GB

WPA 5501 of 2022

Partha Sarathi Ray
VS
Bidhannagar Municipal Corporation & Ors.

*Mr. Nirmalya Dasgupta,
Mr. R.L. Mitra,
Mr. Rakendu Lal Mitra,
Mr. Ovik Sengupta.*

...for the Petitioner.

*Mr. Arka Kumar Nag,
Mr. Tirthankar Dey.*

...for the B.M.C.

*Mr. Sayantan Bose,
Mr. S. Mukherjee.*

...for the Respondent No.7.

Affidavit-of-service filed in Court today, be kept with the record.

The allegation is with regard to the unauthorized construction on Premises No.DB-1, Sector-I, Salt Lake City, Kolkata-700064.

The petitioner has alleged that the Bidhannagar Municipal Corporation has not complied with the directions of this Court and seeks implementation of the order of this Court.

It is submitted that no inspection was not held in presence of the petitioner. The petitioner was not furnished with any report of such inspection. No hearing was given and the specific directions of the Court upon the Corporation to decide as to whether there had been any construction without a plan or in deviation of a plan or in violation of the building rules, have not been complied with.

A report has been furnished before this Court, prepared by the Assistant Engineer, Bidhannar Municipal Corporation, from which it appears that a notice was sent to Dr. Partha Sarathi Ray, the petitioner and Dr. Rajarshee Ray Bandopahdyay, but the fact whether the said notice was received by the petitioner is not available in the records. In the report, there is no reflection of the inspection that was directed to be held by this Court and as would be required in cases where unauthorized construction is alleged.

The report should have contained a reflection as to whether upon consideration of the building plan and by taking measurements of the construction, the authority had arrived at a conclusion that the construction was made exclusively in accordance with the building plan and the rules. Thus, this Court does not accept the inspection report, and the same shall not be used for any further reference.

In order to rule out any further dispute in future with regard to service of the notice of inspection, this Court is of the view that a fresh inspection shall be made and the date of the inspection is fixed by the Court here and now. This order shall be considered to be notice upon all the parties.

Let such inspection be held by the competent authority of the Bidhannagar Municipal Corporation on May 24, 2022 at 2pm. The petitioner and the respondent no.7 and/or their representatives shall be present at the time of such inspection. The other directions of the order dated February 21, 2022 remain unaltered and shall be followed.

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.)