

19.5 2022
Court No. 19
Item no.14
sn

WPA 5618 of 2022

Sibaji Basu Roy Choudhury & Anr.

Vs.

Baranagar Municipality & Ors.

Mr. Abhirup Chakrabortyfor the petitioners

Mr. Saiket Chatterjee ..for the respdts. no.5-11

Let the affidavit-of-service be taken on record.

The petitioners allege that the Baranagar municipality has failed and neglected to take steps on the basis of the complaint filed by the petitioners with regard to the construction made by the respondent nos. 5 to 11. The alleged construction is allegedly going on at premises no. 314, Netaji Colony, Police Station, Baranagar, Kolkata 700 090 under Ward No. 22 of the Baranagar municipality.

The allegation is that a G+III storeyed building had been raised without leaving the mandatory space at the rear end.

The complaint of the petitioners which had been filed before the municipality has been annexed to the writ petition. Such complaint was written by the learned advocate on behalf of the writ petitioners.

Mr. Chatterjee, learned advocate appearing on behalf of the respondent nos. 5 to 11 denies such allegation. He submits that the construction has

been made as per the building plan sanctioned by the authority. The petitioners have raised their construction without leaving the mandatory space as per law and such construction of the petitioners were in violation of the building rules.

Under such circumstances, as the petitioners have approached the competent authority of the Baranagar municipality, the municipality shall act and proceed on the basis of the complaint of the petitioners. The competent authority of the Baranagar municipality shall adhere to the following procedure and reach the proceedings to its logical conclusion:-

a) Inspection of both the premises shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos.5-11 and all other interested parties. Advance notice of the inspection shall be served upon the petitioners, the respondent nos. 5 to 11 and other interested parties. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that the construction of the respondent nos. 5 to 11 was continuing in violation of the rules, the authority may take

such interim measures by stopping such construction. The authority shall also decide whether the construction of the petitioner had been made in deviation of the plan and building rules.

c) Report of such inspections shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioners and the respondent nos.5-11. 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. All documents relied upon by the respective parties shall be exchanged.

f) Reasoned orders shall be passed and communicated to the parties with respect to both premises. 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 question of title, boundary dispute etc. shall not be decided by the municipality.

The rival contentions of the parties as recorded hereinabove, shall be decided.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

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.)