

Item No. 12

12.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4918 of 2020

Pradip Kumar Sarkar
v.
The State of West Bengal & Ors.

Mr. Uttiya Ray
Mr. Arnab Mandal
... for the petitioner.

Mr. Subhasis Bandopadhyay
... for the Municipality.

Mr. Rajdeep Bhattacharyya
... for the respondent no. 3.

The petitioner submits that the order of demolition passed by the Burdwan Municipality on March 9, 2017 has not been completely executed till date.

The report filed by the Assistant Engineer, Burdwan Municipality dated June 21, 2022 mentions about demolition of some of the portions as indicated in the demolition order.

Learned advocate for the petitioner insists that the demolition order has not been executed in full.

The petitioner submits that the point no. 4 and the point no. 7 in the demolition order have not been addressed by the Municipality at all.

The Municipality in the report filed in Court mentions in point no. 6 that any further steps can give birth to multiplicity of suits against Municipality.

The point no. 2 of the report mentions that the stairs made over the side passage have already been demolished at the entry of her building.

It has been submitted that the Municipality ought to take steps in accordance with law and not apprehend multiplicity of suit in not taking action in accordance with law.

Serial no. 9 of the report has also been disputed by the petitioner. It has been submitted that there is no open space towards the petitioner's house as per the sanctioned plan of Annapurna Singh.

Serial no. 9 of the report mentions that it is not possible to demolish the column structure as the total building may collapse.

The Municipality ought to take steps to remove the unauthorized portions.

The petitioner has already filed an exception to the report that has been filed by the Municipality.

Leave is granted to the petitioner to approach the Municipality with his grievances against the report filed in Court on June 21, 2022. In the event, such representation is made highlighting his objection to the report, the same shall be considered by the Municipality

in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and thereafter pass a reasoned order in the matter at the earliest, but positively within a period of eight weeks from the date of filing the representation.

The exception filed by the petitioner in Court today is taken on record.

Since there are several factual disputes involved in the matter, it is not open for the writ Court to enter and decide the same. Accordingly, the matter is referred to the Municipality for taking an appropriate decision with regard to the prayer made by the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)