

17.5 2022
Court No. 19
Item no.12
sn

WPA 5146 of 2020

Biswanath Ghosh
Vs.
Katwa Municipality & Ors.

Mr. Sourav Chatterjeefor the petitioner

Mr. Tapas Bhattacharyya ..for the respdt. no.2

Documents with regard to failed services upon the respondent nos. 4&5 have been filed in Court. The respondent nos. 6 to 8 were served with a copy of the writ petition some time in December 8, 2020. As none appeared on behalf of the respondent nos. 4 to 8 when the matter was taken up on April 13, 2022, the Court directed fresh service of notices. Accordingly, the notice was booked by registered post at the addresses of the respondent nos. 4 to 8, but the track reports indicate that the addressees left without instructions and the postal articles have been returned to the senders. However, the petitioner has not yet received the postal articles. The track reports filed in Court today, are taken on record.

This Court does not find any reason to keep the writ petition pending as the appropriate authority to dispose of the complaint of the petitioner with regard to the alleged unauthorised construction is the municipality. The court has not gone into the

merits of the claims and counter-claims of the parties and as such disposal of the writ petition shall not adversely affect the rights of the respondent nos.4 to 8, who shall be given adequate and complete opportunity by the municipality to urge their cases and substantiate their plea with regard to legality of the construction.

The petitioner has filed a complaint alleging unauthorized construction on L.R. Dag No.343/6465, Mouza Katwa, J.L. No.21. The said complaint has been filed through his learned advocate dated February 20, 2020. The said complaint must be disposed by a competent authority of the Katwa municipality. While doing so, the competent authority of the Katwa municipality shall adhere to the following procedure:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.4-8 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner, the respondent nos. 4 to 8 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 there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection 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 petitioner and the respondent nos.4-8. 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) 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 question of title, boundary dispute etc. shall not be decided by the municipality.

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.)