

19.5 2022
Court No. 19
Item no.16
sn

WPA 6667 of 2022

Smt. Srabani Biswas
VS
The State of West Bengal & Ors.

*Mr. Puspall Chakraborty,
Mr. Prasanna Ganguly.*

... for the Petitioner.

*Mr. Bibek Jyoti Basu,
Mr. Abdus Salam.*

... for the State.

*Mr. Sandipan Banerjee,
Mr. Ankit Sureka.*

... for the H.M.C.

*Mr. Ayan Banerjee,
Ms. Debasree Dhamali.*

... for the Bally Municipality.

*Mr. Jishnu Chowdhury,
Mr. Dipak Dey,
Mr. Dipanjan Dey,*

... for the Respondent nos.10-11

The writ petition has been filed on the premise that a construction had been going on in holding no. 54, G.T. Road, Bally, Howrah without any sanction.

On the last occasion, the respondent nos. 10 and 11 submitted that the Howrah Municipal Corporation had granted permission for construction of a G+IV residential building at holding no. 55, G.T. Road, Bally Howrah. A sanctioned plan has been produced before this Court.

The allegation that the construction had been made without a sanction up to G+IV storeys, does

not survive. The other allegation which has come up after the Bally municipality has filed a report, is that the some deviations have been detected up to the G+IV storeys. Columns for casting a roof on the 5th floor had also been detected.

The Bally municipality had also issued a stop work notice on March 21, 2022. Allegations are denied by Mr. Dey.

Under such circumstances, as the municipality has already taken steps with regard to the construction, nothing remains to be decided in the writ petition.

This writ petition is disposed of with a direction upon the competent authority of the Bally municipality to reach the proceeding, already initiated, to its logical conclusion in accordance with law. While doing so the 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.10&11 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner, the respondent nos. 10&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 there may be reasons to believe that a construction was going on without permission, 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.10&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) 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.)