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07.06.2022
d.p.

W.P.A. 6925 of 2022

**Swapan Kumar Mukherjee
-versus
The State of West Bengal & Ors.**

**Mr. Alok Kumar Ghosh,
Ms. Moumita Ghosh.
...For the Petitioner.**

**Mr. Ayan Banerjee.
...For the Municipality.**

**Mr. Malay Krishna De,
Mr. K.M. Hossain.
...For the State.**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. Kastav Bhattacharya.
...For the Respondent
Nos. 8 and 9.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction of two additional floors made by the private respondent in the premises being No. 1, Banku Behari Ghosh Lane, P.O. & P.S.- Bally, District-Howrah, Pin-711202 under Ward No. 11 of the Bally Municipality.

Pursuant to an earlier complaint filed against the illegal construction of the said premises, a writ petition was filed before this Court being W.P.A. 1392 of 2022 (Smt. Trishna Ghosh –vs- The State of West Bengal & ors.). An order was passed by this Court on 8th March,

2022 directing the Bally Municipality to take necessary steps in accordance with law on the basis of the complaint filed against such illegal construction.

The petitioner herein has relied upon a reply made under the Right to Information Act wherein it has been mentioned that no sanction has been given for construction of G+5 storied building in the said premises.

The petitioner has annexed photographs to show that the G+5 storied building is standing in the said premises.

Learned advocate appearing for the Bally Municipality submits, upon instruction that, steps have been taken in compliance with the direction passed by the Court in the earlier writ petition.

Learned advocate appearing for the private respondent admits that a G+5 storied building has been constructed and an as made plan has been submitted before the municipality.

Learned advocate for the private respondent submits that construction is already over in the said premises.

Learned advocate appearing for the petitioner asserts that construction is still being carried on in the said premises despite of stop work notice issued to the private respondent.

The notice under Section 220 (1) of the West Bengal Municipal Act, 1993 dated 10th January, 2022 issued to the owner and developer mentions that the

owner of the building holds a G+3 storied building but the owner constructed G+5 storied building.

It appears from the submissions made on behalf of the parties that the municipality has already initiated proceeding to deal with such unauthorized construction.

The municipality is directed to conclude the proceeding strictly in accordance with law, at the earliest, but positively within a period of eight weeks from the date communication of a copy of this order.

The municipality shall intimate the petitioner the fate of the proceeding immediately thereafter.

As it appears that the Bally Municipality has come to a specific finding that there has indeed been unauthorized construction in the said premises, the private respondents are restrained from making any further construction in the said premises till a decision is taken by the municipality in response to the complaint filed against such illegal construction.

The Officer-in-charge of the Belur Police Station being the respondent No. 5 is directed to keep strict vigil over the said property to ensure that no further construction is being made thereon till a decision is taken by the municipality.

The municipality shall afford an opportunity of hearing to the petitioner as well as all other necessary parties including the private respondents prior to taking a final decision in the matter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)