

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 7492 of 2022

**Raktim Roy & Anr.
-versus
The Naihati Municipality & Ors.**

**Mr. Biswaroop Bhattacharyya,
Mr. Subhabrata Datta,
Mr. Aranya Saha.
...For the Petitioners.**

**Mr. Sankar Prasad Dalapati,
Mr. Satyajit Mahata.
...For the Respondent No.4.**

**Mr. Sourav Sen
Ms. Adrisnata Chakraborty.
...For the Municipality.**

The petitioners allege illegal and unauthorized construction at the instance of the respondent no. 4 Samar Dey over the Premises No. 64/1, Balivasa Road, P.O.-Hazinagar, Ward No. 2 under the Naihati Municipality.

It appears from the documents annexed to the writ petition that the petitioners filed an earlier writ petition before this Court alleging illegal and unauthorized construction. The said writ petition was disposed of by directing the Naihati Municipality to take steps for making inspection and to pass a reasoned order in the matter after giving an opportunity of hearing to all the parties.

An appeal was carried from the order passed by the Learned Single Judge before the Hon'ble Division Bench. By an order dated 7th April, 2022 the Hon'ble Division Bench directed the Municipality to complete the entire exercise on the basis of the complaints lodged by either parties after giving full opportunity of hearing to all the parties and permitting them to place relevant documents before the Municipality.

The Court made it clear that the Municipality shall take an informed decision in accordance with law.

In the event the Municipality finds that either of the parties made unauthorized construction, the Municipality shall take appropriate steps in accordance with law.

The Municipality, in compliance of the order passed by the Court, afforded opportunity of hearing to the parties.

Learned advocate appearing for the Municipality submits that order has been passed directing the respondent No. 4 Samar Dey to demolish the unauthorized construction immediately on receipt of the notice, failing which appropriate action shall be taken against him as per law.

Learned advocate representing Samar Dey submits that he is not aware as to whether or not his client has preferred any appeal against the order of demolition dated 26th April, 2022.

At the time of hearing of this writ petition, no order cancelling/ modifying/ staying the operation of

the order of demolition the same has been produced before this Court.

Till the order of demolition is stayed/ cancelled by the competent Court, the Municipality is duty bound to comply with the same.

In view of the above, the instant writ petition is disposed of by directing the Municipality to take steps to implement the order of demolition that has been passed in accordance with law, at the earliest.

It is needless to mention that the Municipality shall ensure that no further construction is made on the said property as the order of demolition has already been passed for demolishing the unauthorized construction.

The instruction given by the Chairman Naihati Municipality is taken on records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)