

Sl. No.173
(Monthly List)
26.07.2022
Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 9976 of 2021

Piyush Prasad
versus
The State of West Bengal & Ors.

Mr. Razzak Hossain
Mr. Sanjoy Bhattacharya
Mr. Soumen Gayen
Mr. Sandipan Maity
... for the Petitioner.

Mrs. Sima Adhikari
Ms. Kakali Naskar
... for the State

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Tirthankar Dey
Mr. Souvik Roy
... for Bidhannagar Municipal Corporation

Mr. Rishabh Dutta Gupta
Mr. Ratikanta Pal
... for the private respondent no.9

Learned advocate representing the respondent no.9
has filed his Vakalatnama in the department being filing
No.A-13821 dated 26.07.2022.

The department is directed to tag the Vakalatnama
with the records of the present case.

The matter relates to the building that is standing on
the holding No.FE-23, Sector-III, Salt Lake, Kolkata-700

106 under the jurisdiction of Bidhannagar Municipal Corporation.

The petitioner alleges that there are unauthorised constructions over the said plot of land.

The petitioner relies upon a communication made by the Executive Engineer (Building Plan), Bidhannagar Municipal Corporation dated 8th January, 2021 wherein it has been mentioned that several unauthorised construction, permanent as well as temporary have been found in the said building. Entire first and second floors are being used as paying guest accommodation without any permission from any competent authority and clearance certificate for the first and second floors has not been obtained by the lessee.

According to the private respondent, construction was made in accordance with plan sanctioned by the erstwhile Bidhannagar Municipality.

It has been submitted that no prior inspection of the building was made before issuance of the aforesaid communication of the Executive Engineer.

Learned advocate representing the Bidhannagar Municipal Corporation submits, upon instruction that, on the basis of the complaint lodged by the Executive Engineer, a police case was registered. Because of the pendency of the criminal proceeding, Bidhannagar Municipal Corporation refrained from taking any action in the matter.

It appears from the submissions made on behalf of parties that the Executive Engineer of the Bidhannagar Municipal Corporation has come to a considered opinion that there are several unauthorised constructions and the building was used without obtaining the necessary permission and clearance certificate from the Corporation.

The Court is of the opinion that pendency of the criminal proceeding ought not to stand in the way of the Corporation to take steps against such unauthorised construction.

Since, it has been submitted that no physical inspection of the property in question was conducted, accordingly, Bidhannagar Municipal Corporation is directed to inspect the property after giving prior notice to all the necessary parties and thereafter take a decision as to whether there exists any unauthorised construction and whether the building is being used after obtaining necessary clearance from the competent authority.

Physical inspection shall be conducted within a period of four weeks from date. The Corporation shall thereafter take necessary consequential steps in the matter at the earliest, but positively within a period of eight weeks from the date of conducting the physical inspection.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)