

19.05.2022
Court No. 19
Item no.26
CP

W.P.A. No. 11622 of 2021

Anjali Karmakar @ Anjali Rani Karmakar
Vs.
The State of West Bengal & ors.

Mr. Uttiya Ray
Mr. Arnab Mandal

...for the petitioner.

Mr. Subhasis Banadopadhyay

....for the municipality.

Mr. Susanta Pal
Ms. Ananya Neogi

....for the State.

Mr. Arun Shaw

.....for the respondent no. 5.

Affidavit of service is taken on record.

The petitioner has alleged that the respondent nos. 4 and 5 have made certain constructions without any permission from the Burdwan Municipality at L.R. Plot No. 605 under Khatian No. 957 corresponding to Municipal Holding No. 31, Mahalla-Alamgunj.

Mr. Shaw, learned advocate appearing on behalf of the respondent no.5, submits that no construction has been raised by the said respondent.

The learned advocate for the municipality submits that a 'stop work' notice had been issued on May 15, 2019, but thereafter the matter has not proceeded in view of the intervening pandemic situation.

As the municipal authorities have taken cognizance of the complaint of the petitioner and has already issued a 'stop work' notice, no useful purpose will be served by keeping the writ petition pending. Accordingly, the writ petition is disposed of with a direction upon the competent authority of the Burdwan Municipality to act and proceed in accordance with law and reach the proceedings already initiated to its logical conclusion. While doing so the following procedure shall be adopted:

- a) Inspection of the construction shall be conducted in the presence of the petitioner, the respondent nos. 4 and 5 and other interested parties with 48 hours advance notice to the parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) During inspection, if any further construction is detected in violation of the rules, then the corporation can take interim measures.

- c) Reports shall be prepared and handed over to the petitioner and the respondent nos. 4 and 5.
- d) Thereafter, a hearing shall be given to the petitioner, the respondent nos. 4 and 5 and all other interested parties. The parties must also be allowed to furnish their written objection/version to the said reports and adduce oral and documentary evidence in support of their contentions, before the competent authority.
- e) 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 with regard to the constructions.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

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 server copy of this order.

(Shampa Sarkar, J.)