

Sl. No.14
26.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12794 of 2021

Swapan Kumar Barman & Anr.
Versus
English Bazar Municipality & Ors.

Mr. Debanik Banerjee
Mr. Salman Hasan
Mr. Sagnik Mukherjee
... for the petitioners
Ms. Sonal Sinha
Ms. Srabasti Barai
... for the respondents/
English Bazar Municipality
Mr. Avishek Prasad
Mr. Sreetama Neogi
... for the respondent nos.5 & 6

The petitioners are aggrieved by the act on the part of the English Bazar Municipality in making construction of road by illegally encroaching upon the private land of the petitioners.

The petitioners have engaged an Amin to demarcate the land wherefrom it appears that the Municipality has encroached nearly 400 sq. ft. of the petitioners' premises. The petitioners approached the Chairman of English Bazar Municipality with request for removal of the unauthorised construction but the same is yet to be considered.

The petitioners also allege that the respondent nos.5 & 6 have encroached the private land of the

petitioner at the time of making construction. Though there is an averment made in the writ petition regarding unauthorised construction at the instance of the private respondents, but representation is yet to be filed before the Municipality alleging such unauthorised construction.

Learned advocate representing the Municipality submits that the Municipality will take steps in accordance with law.

Learned advocate for the private respondents denies the allegation of unauthorised construction. It has been submitted that construction has been made by the private respondents in accordance with the plan sanctioned by the Municipality.

As it appears that the representation filed by the petitioners before the Chairman of the English Bazar Municipality is pending consideration accordingly, the Chairman of the Municipality is directed to cause a spot inspection to ascertain as to whether there has been any unauthorised encroachment by the Municipality at the time of construction of the road. If it transpires that the petitioners' land has been encroached upon, then necessary steps may be taken either for removal of the unauthorised encroachment or for payment of compensation on account of using the land of the petitioners for public purpose. The inspection shall be conducted upon prior notice to the petitioners.

As regards allegation against the private respondents, it will be open for the petitioners to make appropriate representation before the Municipality. If any such representation is filed before the Municipality, the same shall be considered strictly in accordance with law after giving reasonable opportunity of hearing to both the parties and thereafter a decision be taken in the matter.

As regards encroachment of the petitioners' land by the Municipality, inspection shall be conducted within a period of six weeks from the date of communication of this order and a final order be passed by the Municipality within a period of four months from the date of communication of this order.

As regards allegation against the private respondents, the Municipality shall consider the representation to be filed by the petitioner within a period of six weeks from the date of receipt of the representation and thereafter conduct spot inspection to ascertain the veracity of the allegation and take a final decision in the matter within a period of four months from the date of receipt of the representation.

If it is found that the private respondents have made any construction in deviation of the plan sanctioned, then necessary steps shall be taken for removal of the unauthorised construction in accordance with law.

Affidavit of service filed in Court is taken on records.

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.)