

S/L 41
15.03.2022
Court. No. 19
GB

W.P.A. 14248 of 2021

Tapasi Walkar
VS
The State of West Bengal & Ors.

*Mr. Partha Sarkar,
Mr. Sandip Ghosh.*

...for the Petitioner.

*Mr. Anirban Ray,
Mr. Raja Saha,
Mr. Somnath Basu.*

...for the State.

*Mr. Naba Kr. Das,
Mr. Arindam Banerjee.*

...for the Respondent Nos.5 & 6.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner has complained of some construction of a permanent structure in front of the house of the petitioner on a municipal road. The house of the petitioner is situated at L.R. Dag No.1680, Mouza-Shibpur, Ward No.20, Mahalla-Shibpur 2nd Lane corresponding to Holding No.78 under Bansberia Municipality.

According to the petitioner, the structure, which has been constructed right in front of the house of the petitioner, has caused disturbance to the ingress and egress of the petitioner to her residential house. It is further submitted that the said construction has been made without permission from the municipal authorities.

Mr. Das, learned advocate appearing on behalf of the respondent nos.5 and 6 submits that the said construction is in the nature of a platform or a stage, which is used for observance of Durga Puja. The municipal authorities have

granted such permission on a year to year basis. He further submits that the construction has not affected the ingress and egress of the petitioner, to the petitioner's house.

Be that as it may, as there are disputed questions of facts involved and there are allegations of construction without permission of the municipality on a land belonging to the municipality, this Court is of the opinion that the complaint lodged by the petitioner before the municipality, which is annexed to the writ petition must be disposed of in accordance with law upon granting an opportunity to the parties to make their submissions.

While disposing of the complaint, the municipality shall act and proceed in the following manner:-

a) An inspection of the site shall be conducted to ascertain whether the construction has blocked the ingress and egress of the petitioner and whether vehicles can pass. Such inspection shall be held in the presence of the petitioner and the respondent nos.5 and 6, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 and 6. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent nos.5 and 6. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by either party, shall be decided.

f) 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.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently. The municipality will also decide whether the construction obstructs the ingress and egress of the petitioner and is on a municipal land/road or on P.W.D. road and whether any permission could be granted for such construction on the municipal land, as alleged.

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

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 learned advocate's communication.

(Shampa Sarkar, J.)