

23
06.09.2022
d.p.

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

W.P.A. 14437 of 2022

**Smt. Bani Maity
-versus
The State of West Bengal & Ors.**

**Mr. Tulsi Das Maiti,
Mr. Pradip Kumar Ghosh.
...For the Petitioner.**

**Mr. Nilanjan Adhikari.
...For the Respondent No.4.**

**Mr. Amit Baran Dash,
Ms. Ankana Sarkar.
...For the Respondent No.9.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner alleges that the respondent No.9 is making illegal and unauthorized construction on Plot No. 308, J.L. No. 309, Mouza-Dharmadasbar under Ward No.-XX under the Contai Municipality.

The petitioner relies upon a notice to stop construction issued by the Chairman of the Municipality to the respondent No.9 directing the said respondent to stop illegal construction.

It is the specific stand of the petitioner that the private respondent is raising construction at a very fast pace despite the stop work notice that has been issued by the Municipality.

Learned advocate appearing for the private respondent submits that he was taking steps to construct the shop room which was standing thereon but was damaged in view of the cyclone.

It has been submitted that an application was made seeking permission to repair but the same was not issued and as such, he started raising the construction.

It has been submitted that after issuance of the stop work notice, the private respondent is not raising any further construction at present.

Learned advocate appearing for the Municipality is not ready with instructions in the matter.

As it appears that the Municipality has already issued a stop work notice directing the respondent No.9 not to make any further construction in the said premises, accordingly, the instant writ petition is disposed of by directing the Contai Municipality to take proper necessary steps in response to the representation filed by the petitioner on 22nd June, 2022 strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or

devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

As the Municipality has already issued stop work notice, accordingly, the Municipality shall ensure that no further construction is being made by the respondent No.9 till a final decision is taken on the representation filed by the petitioner.

The petitioner is directed to forward a copy of the representation dated 22nd June, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

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.)