

07.03.2022
Court No. 19
Item no.12
CP

WPA No. 15595 of 2021

Md. Safiuddin Mondal

Vs.

The Bidhannagar Municipal Corporation & ors.

Mr. Ayan Mitra
Mr. Chandan Mondal
Ms. Antara Panja

.....for the petitioner.

Mr. Debabrata Saha Roy
Mr. Arka K. Nag
Mr. Subhankar Das

....for the Bidhannagar
Municipal Corporation.

Mr. Debabrata Mondal
Mr. Falguni Bandyopadhyay
Ms. Sonali Das
Ms. Sreetama Neogi
Ms. Riya Ballav

....for the respondent nos. 9 to 13.

Mr. Santanu Mitra
Mr. Benazir Ahmed

....for the State.

The petitioner claims to be an adjacent owner to the premises of the respondent nos. 9 to 13 which is situated at R.S. Dag No. 87, Mondalganhi, Biswaspara, Baguiati, Ward No. 7 of the Bidhannagar Municipal Corporation.

According to the petitioner, a G+5 storeyed building has been constructed in the absence of a sanction plan. The petitioner relies on two 'stop work' notices issued by the Bidhannagar Municipal

Corporation. The petitioner submits that the construction has been going on in violation of the 'stop work' notices.

It is submitted on behalf of the respondent nos. 9 to 13 that the construction had been completed sometime in 2015, pursuant to a sanction plan which was granted by the Bidhannagar Municipal Corporation. It is further submitted that a Title Suit being Title Suit No. 173 of 2021 is pending before the learned Civil Judge (Junior Division), First Court at Barasat, and, as such, this writ petition should not be entertained.

Mr. Saha Roy, learned advocate appearing on behalf of the Bidhannagar Municipal Corporation, submits that upon receipt of the complaint of the petitioner, the 'stop work' notices were issued.

To this, the learned advocate for the respondent nos. 9 to 13 submits that such 'stop work' notices were issued arbitrarily and without any inspection of the premises in question.

Heard the parties. The Civil Court does not have any jurisdiction to decide matters relating to unauthorized construction and deviations. The municipal authorities are empowered under the relevant statute, to decide these issues, in accordance with the provisions of law.

Having heard the rival contentions of the parties, the writ petition is disposed of with a direction upon the competent authority of the Bidhannagar Municipal Corporation, to act and proceed in accordance with law, by adhering to the following procedure:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent nos. 9 to 13.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent nos. 9 to 13.
- d) A hearing shall be given to the petitioner and the respondent nos. 9 to 13. 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.
- 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.

The learned advocate for the respondent nos. 9 to 13 produces a copy of the sanction plan granted by the Bidhannagar Municipal Corporation. Such plan has been perused by the court and will be produced before the concerned authorities at the time of hearing.

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

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)