

03.01.2022
Sl. No.13
srm

W.P.A. No. 15598 of 2021
Nirmalendu Das
Vs.
The State of West Bengal & Ors.

Mr. Mridul Kanti Sasmal
...for the Petitioner.

Mr. Rabindranath Mahata
...for the Respondent Nos.9 to 11.

Ms. Ahana Sikdar
...for the Municipality.

Affidavit-of-service is taken on record.

The petitioner has challenged the stop work notice issued by the Member, Board of Administrators, Midnapore Municipality dated February 1, 2021. According to the petitioner, the alleged notice had been issued contrary to law. The petitioner submits that only repairing work had been going on in the premises situated at Patnabazar (Sitala Mandir Lane), Ward No.19 under Midnapore municipality, but no new construction or addition or alteration was being done. The petitioner had also answered to the stop work notice. Pursuant to the answer submitted by the petitioner, the authorities of the Midnapore Municipality fixed several dates for hearing, but no order had yet been passed by the said authority. The petitioner further submits that although the notices of hearing

were served upon the parties, actual hearing had not taken place.

Mr. Mahata, learned Advocate appearing on behalf of the respondent Nos.9 to 11, submits that the construction was in the nature of building and rebuilding and the tin shed had been converted to a concrete roof above the structure.

Learned Advocate for the Midnapore Municipality submits that the parties had been called for hearing but no final decision has yet been taken in view of the submissions made by the parties at the hearing.

Having considered the rival contentions of the parties, this writ petition is disposed of with a direction upon the appropriate authority of the municipality to hold an inspection of the premises in question in presence of the parties. A report shall be prepared and supplied to all the parties. Thereafter a reasoned order shall be passed upon hearing the parties and the same shall be communicated to all concerned. Needless to mention that the said proceeding shall be reached to its logical conclusion in accordance with law on the basis of what transpires at the inspection as also at the hearing. The parties are entitled to make their appropriate submissions before the authority concerned.

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

This Court has not gone into the merits of the claims and counter-claims of the parties and all points with regard to the allegation of unauthorized construction will be decided by the municipality.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)