

S/L 20
16.03.2022
Court. No. 19
GB

W.P.A. 16742 of 2021

Kartick Chandra Paul & Anr.
VS
The State of West Bengal & Ors.

Mr. Uttiya Ray

...for the Petitioners.

*Mr. Kamalendu Ghose,
Mr. Raja Ghosh.*

...for the State.

*Mr. Sounak Bhattacharya,
Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee.*

...for the Respondent Nos.5 to 8 & 10.

The petitioners have alleged that the respondent nos.5 to 10 have made some unauthorized constructions on Holding No.152, commonly known as 'Natun Bazaar', pertaining to L.R. Plot No.9 in Mouza-Sankharipurkur under Ward No.35 of the Burdwan Municipality.

It is submitted that pursuant to the complaint made by the petitioners, the Executive Officer of Burdwan Municipality issued a notice upon the said respondents. However, pursuant to such notice, no further action has been taken by the municipality. Hence, this writ petition.

Mr. Bhattacharya, learned advocate appearing on behalf of the respondent nos.5 to 8 and 10 submits that the said respondents are shop owners, who had only repaired their thatched roof, but no permanent concrete constructions have been made.

These are disputed questions of facts, which cannot be decided by this Court. It appears that the petitioners have

already approached the municipality in accordance with law. The municipality has also issued a notice upon the respondents. Thus, without going into the merits of the claims and counter-claims of the parties, this writ petition is disposed of, with a direction upon the Burdwan municipality to dispose of the complaint of the petitioners in accordance with law.

While disposing of the complaint, the municipality shall adhere to the following procedure:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.5 to 10, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 to 10. 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) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

c) 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 to 10. 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.

g) It is made clear, that the question of title, encroachment and boundary dispute shall not be gone into. Only the question of unauthorized construction and violation of the Building Rules, shall be considered.

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.)