

S/L 5  
11.02.2022  
Court. No. 19  
GB

W.P.A. 15696 of 2019

Subodh Kar  
VS  
The State of West Bengal & Ors.

*Mr. Rajib Kumar Basu.*

*...for the Petitioner.*

*Mr. Manas Kumar Kundu,  
Ms. Prativa Ghata.*

*...for the State.*

*Mr. Suvadip Bhattacharjee,  
Mr. Balaram Patra.*

*...for the Respondent No.8.*

*Mr. Gautam Lahiri.*

*...for the Municipality.*

The allegation is that the Serampore Municipality has failed to take into consideration the complaint of the petitioner dated March 2, 2019. The allegations are that the respondent no.8 in connivance with the respondent nos.9 to 12 have stored some inflammable articles on the portion used and occupied by the said respondents by construction of a permanent structure without any permission from the municipal authorities. The said construction is alleged to have been made on Premises No.49D/1, Ganguly Bagan Lane, Mahesh, Hooghly.

Mr. Bhattacharjee, learned advocate appearing on behalf of the respondent no.8 denies the allegations. It is submitted by Mr. Bhattacharjee that the said respondent runs a business of flower decoration and at times keeps his articles in his house. He denies the allegation of construction

of a permanent structure and storage of inflammable materials. It is further submitted that the flower decoration business is being run upon obtaining proper certificate of enlistment from the municipal authorities. The other statutory compliance required for running such business, have also been fulfilled.

In this context, having heard the parties, this Court is of the opinion that the dispute with regard to title or the business of the respondent no.8 are not required to be gone into by the municipal authorities. All that the municipal authorities are to ensure is that no inflammable materials should be kept without proper permission from the fire authorities within the premises and no permanent construction should be made without permission or sanction from the authorities.

As it is submitted by the petitioner that the civil suit relates to encroachment and boundary dispute, the orders passed in the suit shall not bind the municipal authorities. Moreover, the action to be taken by the municipal authorities pursuant to the direction of this Court, shall also not affect the merits of the suit.

The writ petition is disposed of with a direction upon the competent authority of the Serampore Municipality to dispose of the representation/complaint of the petitioner dated March 2, 2019 in accordance with law.

While disposing of the issues involved, the Municipality shall adhere to the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the parties, within three weeks. Advance notice of the inspection shall be served upon the parties. If the parties are not available to accept notice, the authorities shall affix the notice 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 petitioner as also the person(s) responsible.

e) A hearing shall be given to the parties. 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.

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 the issues involved shall be decided independently.

g) The question of title, encroachment etc. shall not be gone into by the Serampore Municipality.

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

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and the learned advocate's communication.

**(Shampa Sarkar, J.)**