

S/L 17
06.04.2022
Court. No. 19
GB

WPA 17802 of 2021

Sipra Mukherjee
Vs.
The Rajpur-Sonarpur Municipality & Ors.

Mr. Goutam Thakur,
Ms. Anandamayji Ghosh.

...for the Petitioner.

Mr. Mir Anuruzzaman.

...for the Municipality.

Mr. Rajarshi Basu,
Mr. Abdus Salam.

...for the State.

Mr. R. Abedin,
Mr. A. Dewan.

...for the Respondent No.7.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner alleges that the respondent no.7 had started a construction sometime in October 2021 upon a plot of land adjacent to holding no.241 within Ward No.16 of the Rajpur-Sonarpur municipality. It is alleged that two rooms were being constructed and such construction had been made in deviation of the Rules and without any permission from the authority.

Learned advocate appearing on behalf of the respondent no.7 submits that only some repairing work was going on, but no construction had been made.

As these are disputed questions of facts, this Court is not inclined to decide the matter. The municipal authorities are empowered by law to take action in respect of

unauthorized construction and determine such question. The writ petition is disposed of with a direction upon the competent authority of the Rajpur-Sonarpur municipality to dispose of the complaint of the petitioner dated October 22, 2021 in accordance with law. While doing so, 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.7 and all other interested parties. Advance notice of the inspection shall be served upon the petitioner and the respondent nos. 7. 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.7. 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 documents relied upon by the respective parties shall be exchanged.

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 question of title, boundary dispute shall not be decided by the municipality. The municipality will decide whether the alleged two rooms had been constructed recently and without any permission from the authority and also whether such construction was also in violation of the Rules.

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

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.)