

23.03.2022
Sl. No. 24
ss

W.P.A. 19144 of 2021

**Ashok Dhara
Vs.
Uttarpara Kotrung Municipality & ors.**

Mr. Krishna Das Poddar
... for the petitioner

Mr. Jahar Datta
Mr. Bipin Ghosh
... for the State

Mr. A. K. Routh
... for the respondent no.8

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri
... for the Municipality

The petitioner alleges that the respondent no.8 has made some unauthorised construction over a portion of plot No.97/4, Rajendra Avenue, Uttarpara, Hooghly under Uttarpara-Kotrung Municipality.

It is further alleged that the mandatory side space which was required under the rules had not been maintained and a G+3 storeyed building has been raised, in violation of the building plan as also the building rules.

Mr. Rauth, learned Advocate appearing on behalf of the respondent no.8 submits that the construction has been made in accordance with the plan, a stop-work notice was issued by the concerned municipality and thereafter no construction has been raised.

Mr. Mukherjee, learned Advocate appearing on behalf of the Uttarpura-Kotrung Municipality submits that a stop-work notice has already been issued and a show-cause notice has also been issued to the respondent no.8 asking the said respondent to answer as to why steps shall not be taken in accordance with law.

As the municipal authorities have already taken cognizance of the complaint of the petitioner, this writ petition is disposed of with a direction upon the concerned municipality to act and proceed in accordance with law and dispose of the complaint of the petitioner by following manner :-

- a) An inspection of the premises shall be conducted.

Such inspection shall be held in the presence of the petitioner and the respondents Nos.5 to 8 within three weeks. Advance notice of the inspection shall be served upon the petitioner and the said respondents.

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 respondents Nos.5 to 8. 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.

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.)