

06.04.2022
Sl. No.24
ss

W.P.A.19302 of 2021

Md. Imtiaz
Vs.
Biddannagar Municipal Corporation & ors.

Mr. Mukteswar Maity
Ms. Manika Sarkar
... for the petitioner

Mr. Debabrata Saha Roy
Mr. Arka Kumar Nag
Mr. Subhankar Das
... for the Corporation

Mr. Firdous Samim
Ms. Gopa Biswas
... for the respondent nos.5 to 7

The allegation is that the respondent nos.5 to 7 have been making some unauthorised construction over R.S. Dag No.827 pertaining to R.S. Khatian No.1556 within ward No.13 under Bidhannagar Municipal Corporation, without any plan and by violating the building rules. A complaint to that effect has been filed before Bidhannagar Municipal Corporation on October 5, 2021.

It is alleged that the Bidhannagar Municipal Corporation has not taken any step, despite such complaint.

Learned Advocate appearing on behalf of the respondent nos.5 to 7 submits that no construction

is going on and the complaint filed before the Corporation is frivolous.

However, as there is an allegation of unauthorised construction, this Court is of the opinion that the Corporation, which is the authority empowered under the law to deal with such a complaint, must act and proceed on the basis of the allegation of unauthorised construction and shall reach the same to its logical conclusion, in accordance with law. While doing so, the following procedure shall be adopted:-

- 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 and 7, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.5 and 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

interim measures by stopping such construction.

- c) A 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, if prepared, shall be handed over to the parties.
- e) A hearing shall be given to the petitioner and the respondent nos.5 and 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 points raised by the parties shall be decided. All documents filed by the parties, if any, 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 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

question of title, boundary dispute and co-shareship shall not be gone into.

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

With the above observations, this 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.)