

24.03.2022
Sl. No. 14
ss

W.P.A. 19972 of 2021

Sankar Mukherjee

Vs.

The Howrah Municipal Corporation & ors.

Mr. Nilanjan Bhattacharjee

Mr. Arpan Guha

... for the petitioner

Mr. Sandipan Banerjee

Mr. Ankit Sureka

... for the H.M.C.

Mr. Apurba Kumar Ghosh

... for the respondents no.6 & 7

The petitioner has approached this Court challenging the inaction on the part of the competent authority of the Bally Municipality to take a decision on the basis of the complaint of illegal construction in respect of holding No.6/1 and 6/2, Amrita Lal Nath Lane, P.O. Belurmath, P.S. Bally, District Howrah.

According to the petitioner, the respondent nos.6 and 7 have raised some constructions after the property has been partitioned between the brothers, without maintaining adequate front space and side space, as required by the building rules.

According to Mr. Bhattacharjee, learned Advocate appearing on behalf of the petitioner, the construction over and above the existing structure could not be done without proper permission from the sanctioning authority and also without following the building rules.

It appears that complaint was lodged with the respondent authorities, but the respondent authorities have not acted and proceeded in accordance with law. Hence this writ petition.

Mr. Ghosh, learned Advocate appearing on behalf of the respondent nos.6 and 7 submits that the construction has been made as per the sanction and there has been no deviation.

As the dispute is with regard to the unauthorised construction, this Court is of the opinion that the petitioner must lodge a detailed complaint with the Administrator of the Bally Municipality and the Administrator of the Bally Municipality shall dispose of the complaint of the writ petitioner in accordance with law, in the following manner :-

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

Such inspection shall be held in the presence of the petitioner and the respondent nos. 6 and 7, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents No.6 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 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 No.6 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 either party, shall be decided. The question of title or boundary dispute, shall not 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.

The petitioner is directed to implead the Administrator of the Bally Municipality namely, the Sub-Divisional Officer,

Howrah Sadar as a respondent in this proceeding. A copy of the writ the petition along with the server copy of this order, be served by the petitioner upon the added respondent.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)