

S/L 14
9.3.2022
Court. No. 19
sn

W.P.A. 20133 of 2021

Manowara Bibi
VS
The State of West Bengal & Ors.

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

Mr.A.K. Rough
... for the respondent nos.8&9

Mr. Debabrata Saha Roy
Mr. Arka Kr. Nag
Mr. Subhankar Das
..for the B.M. C.

This writ petition has been filed for a direction upon the competent authority of the Bidhannagar Municipal Corporation to dispose of the representation of the petitioner. The petitioner has raised an objection with regard to the construction made by the respondent nos.8&9. It is alleged that the said construction has been made on a portion of R.S. Dag No. 641, Mouza Kaikhali under the Bidhannagar Municipal Corporation. It is submitted that the construction has been made without permission from the authorities.

It is submitted by Mr. Routh, learned advocate for the respondent nos.8&9 that the construction has been made in accordance with the sanction plan and the building rules have been strictly followed. That the Corporation also granted occupancy certificate. He

further submits that the petitioner has filed a suit for eviction, declaration and for other reliefs being Title Suit No. 02 of 2021 and the parties have been directed to maintain status quo.

Mr. Saha Roy, learned advocate for the Corporation submits that the Corporation shall take steps pursuant to the complaint of the petitioner, in accordance with law upon observing the principles of natural justice.

Having considered the rival contentions of the parties, this Court is of the opinion that the civil suit, which has been filed for eviction, declaration and for other reliefs can continue in accordance with law. Reliefs prayed for in this writ petition, are not to be adjudicated by a civil court. Complaints of unauthorized construction and steps to be taken by the authorities in case of such complaint, are matters covered by the West Bengal Municipal Corporation Act, 2006. The writ petition is thus entertained.

Accordingly, the writ petition is disposed of with a direction upon the competent authority of the Bidhannagar Municipal Corporation to act and proceed in accordance with law by adhering to the following procedure:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.8&9 within three

weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents and upon all other interested 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 irregular and was continuing, the authorities may take 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. 8&9. 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, will 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 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.

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/or the learned advocate's communication.

(Shampa Sarkar, J.)