

S/L 12
23.02.2022
Court. No. 19
sn

W.P.A. 21181 of 2021

Badal Kumar Maity & Anr.
VS
The State of West Bengal & Ors.

Mr. Debayan Bera
Mr. Pradip Kr. Ghosh ... for the Petitioners.

Mr. Koushik Chatterjee
Mr. N ilanjan Adhikari
... for the Respondent nos.2-4

Mr. L.M. Mahata
Mr. P.B. Mahta ..for the State

Despite service none appears on behalf of the respondent nos.6&7. Affidavit of service is taken on record.

The respondent nos. 6&7 have made unauthorized construction on plot no. 307, J.L. No.309, Police Station Contai, Mouza Dharmadasbar within Ward No.21 of Contai municipality. The petitioners lodged a complaint with the Contai municipality. On the basis of the complaint, a stop work notice had been issued. It is specifically submitted that despite such stop work notice, the respondent nos. 6&7 have been continuing with the construction.

Records reveal that the Chairperson of the Board of Administrators of Contai municipality intimated the respondent nos. 6&7 by a letter dated December 9, 2021, that in case the alleged constructions were not

stopped, steps would be taken against the said respondents.

The learned advocate for the Contai municipality submits upon instructions that the authorities have ensured that no further construction takes place.

Having considered the rival contentions of the parties, this Court is of the opinion that the writ petition can be disposed of in absence of the respondent nos. 6&7. The entire matter is relegated to the competent authority of the Contai municipality under the law to deal with the issues upon hearing the said respondents.

While disposing of the issues involved herein, the competent authority of the Contai municipality shall adhere to the following procedure:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondents within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents and 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 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 petitioners and the respondents. 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 the issues involved shall be decided independently.

The entire exercise shall be completed within a period of six 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.)