

S/L 9  
09.03.2022  
Court. No. 19  
GB

W.P.A. 21311 of 2021

Tandra Saha Dobey & Ors.  
VS  
The State of West Bengal & Ors.

*Mr. Sudeep Sanyal,  
Mr. Sukanta Das,  
Ms. Lopamudra Moitra.*

*...for the Petitioners.*

*Mrs. Sudipa Roy,  
Mr. Srinath Singha Roy.*

*...for the State.*

*Mr. M. Thakur,  
Mr. Swarup Kumar Ghosh.*

*...for the Respondent Nos.3 to 5.*

*Mr. Sounak Bhattacharya,  
Mr. Sounak Mondal.*

*...for the Respondent Nos.9 & 10.*

The writ petitioners, who are the co-sharers of L.R. Plot No.285 of Mouza-Krishnanagar, Ward No.3 under Ghatal Municipality, have alleged that the respondent nos.9 and 10 have raised some unauthorized constructions without leaving adequate side space required to be kept, as per the rules. It is submitted that there has also been a change of user, as a result of which, the co-sharers have been prevented from enjoying their property freely and the free flow of light and air has been obstructed.

Mr. Bhattacharya, learned advocate appearing on behalf of the respondent nos.9 and 10 submits that the construction was made in accordance with the plan. That the reliance placed on the letters of the ward co-ordinator with regard to the allegations of unauthorized construction and

the plan in question, cannot be the basis for interference by a writ court.

Mr. Thakur, learned advocate appearing on behalf of the Ghatal Municipality submits that a stop work notice was issued to the respondent nos.9 and 10 and the municipality has decided to proceed in the matter in accordance with law.

As the municipal authorities have already decided to proceed in the matter on the basis of the complaint received, no useful purpose will be served by keeping the writ petition pending. It is the municipality who is empowered by the Statute to take steps in a case of detection of any unauthorized construction.

The writ petition is disposed of by directing the Ghatal Municipality to act and proceed in accordance with law by adhering to the following procedures:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.9 and 10 within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent nos.9 and 10 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 respondent nos.9 and 10. 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 question of title shall not be gone into by the municipality. The municipality will proceed in the matter as directed by this Court and the letters of the ward coordinator for the purpose of inspection and hearing shall not be relevant unless it is detected that the ward coordinator had acted contrary to law, in this case, he shall be heard too.

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 advocates' communication.

**(Shampa Sarkar, J.)**