

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

06.05.2022
Court No.01
rpan/04

WPA 781 of 2022

**Anup Mitra & Another
– Versus –
The State of West Bengal & Others**

Mr. Nripen Das
... for the Petitioners.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman
... for the State.
Mr. Deborshi Dhar
... for the Siliguri Municipal
Corporation.

Mr. Arun Kr. Sarkar,
Mr. Abhijit Sarkar,
Mr. Kartick Majumder
... for the Pvt. Respondent no.8-10.

Mr. Das, learned advocate appearing for the petitioners submits that the private respondents have started construction over the adjacent plot of the petitioners without obtaining necessary sanction plan from the municipal authorities and without leaving the mandatory space as required under the West Bengal Municipal Corporation Act and the Rules framed thereunder. Such facts were brought to the notice of the respondent no.4 by a representation submitted on behalf of the petitioners on 4th March, 2022. In spite of receipt of the same, the competent authority has not taken any steps to stop such illegal construction

or towards demolition of the construction already raised by the private respondents.

Aggrieved by such inaction on the part of the municipal authorities, the petitioners have approached this Court.

Mr. Sarkar, learned advocate appearing for the private respondent nos.8-10 denies and disputes the contention of the petitioners and submits that the said respondents have only undertaken repairs of the existing structure on the concerned plot of land. For such repairs no prior permission is required from the municipal authorities.

Mr. Dhar, learned advocate appearing for the municipal authorities submits that the authority competent to take a decision on the dispute is the respondent no.4 and the issue may be relegated to him for consideration and for taking appropriate steps.

He has, however, not been able to furnish any explanation as to why appropriate steps have not been taken by the municipal authorities though the representation was submitted way back on 4th March, 2022.

Upon hearing the learned advocates appearing for the respective parties and upon considering the materials on record, I am of the

opinion that no useful purpose will be served by keeping the writ petition pending and the issue needs to be relegated to the respondent no.4 for taking appropriate steps.

Accordingly, this Court directs the respondent no.4 to consider the representation dated 4th March, 2022, as submitted on behalf of the petitioners, upon granting an opportunity of hearing to the petitioners as well as the private respondents and to take a decision, in accordance with law and to communicate the same to the parties within a period of four weeks from the date of communication of this order along with a copy of the representation dated 4th March, 2022.

It is made clear that in the event it is found that any unauthorized construction has been raised by the private respondents, the respondent no.4 shall take appropriate follow up steps forthwith.

As no affidavits have been called for, the allegations made in the writ petition shall be deemed to have been denied by the respondents.

With the above directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Photostat certified copy of this order, if applied for, be given to the parties on urgent basis upon compliance of all requisite formalities.

(Tapabrata Chakraborty, J.)