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Ct
No24
AGM

24.04
2023

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 70 of 2023

**Smt. Mohua Santra
Vs
The Bally Municipality & Ors
With**

WPA 27988 of 2022

**Smt. Trishna Ghosh
Vs
The State of West Bengal & Ors**

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
... For the Petitioner in WPA 70 of 2023 and for
the respondent no. 7 in WPA 27988 of 2022.

Mr. Sandip Ghosh
Ms. Mousumi Chatterjee
Mr. Partha Sarkar
... For the Petitioner in WPA 27988 of 2022 and
for the respondent no. 6 in WPA 70 of 2023.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghoah
... for the Bally Municipality.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... For the State.

Smt. Mohua Santra prays for implementation of the
order of demolition and Smt. Trishna Ghosh challenges
the same.

Admittedly, the order of demolition is an appealable
one.

Smt. Trishna Ghosh approached this Court in the
writ jurisdiction alleging violation of principle of natural

justice. The order sheets of the Bally Municipality records that Smt. Trishna Ghosh did not file reply to the show cause notice.

According to Smt. Trishna Ghosh she was not aware as to whether her prayer seeking a month's time to file the representation was at all allowed or not.

Smt. Trishna Ghosh submits that as she was unaware of the time period within which the representation ought to have been filed, the same could not be filed.

Further case made out by Smt. Trishna Ghosh is that the sketch forwarded by the Municipality with the communicating letter dated 1 / 2 August, 2022 is not signed by the competent authority. It has been submitted that the earlier sketch was signed by the Sub Assistant Engineer of the Municipality.

Smt. Trishna Ghosh submits that the subsequent sketch was prepared at the instance of Smt. Mohua Santra.

Learned advocate representing Smt. Mohua Santra submits that enough opportunities were granted to Smt. Trishna Ghosh for submitting show cause. Time and again Smt. Trishna Ghosh was heard and there is no requirement of giving any further hearing to Smt. Trishna Ghosh. The submissions made on behalf of Smt. Trishna Ghosh in Court today has not been pleaded in the writ petition.

According to Smt. Mohua Santra, Smt. Trishna Ghosh has not denied the inspection report.

Learned advocate representing the Municipality admits that the date 11th August, 2022 as recorded in the order sheet is incorrect. The same ought to read as 16th August, 2022. Hearing was conducted on 16th August, 2022 and as per the prayer of Smt. Trishna Ghosh, one month's time was granted for submitting the show cause. As no show cause was filed within the time sought for, the Municipality passed order on 17th September, 2022.

It has been pointed out that the subsequent sketch forwarded to Smt. Trishna Ghosh was only to specify and demarcate the portion constructed unauthorisedly. The same was admittedly forwarded by the Municipality and the same was not prepared at the instance of any private party.

It appears from the submissions made on behalf of all the parties that the matter was being heard by the Municipality pursuant to order passed by this Court. The Court fixed a specific time period within which the matter was required to be disposed of. The Municipality acted in accordance with the Court's order.

Smt. Trishna Ghosh tries to make out an issue with regard to the subsequent sketch forwarded without the signature of any engineer. The Municipality accepts that the same was forwarded by the Municipality and accordingly the submission of Smt. Trishna Ghosh that the same was prepared at the instance of Smt. Mohua Santra does not have any leg to stand upon.

The portions which have been constructed unauthorisedly is clearly indicted in the sketch forwarded

to Smt. Trishna Ghosh in August 2022.

For ends of justice and to avoid any further litigation regarding non-granting of opportunity to file reply, the Court grants leave to Smt. Trishna Ghosh to file the objection to the show cause notice by Friday, 28th April, 2023. In the event a reply is filed by Smt. Trishna Ghosh within the time limit specified hereinabove, the Administrator of the Bally Municipality shall give a further opportunity of hearing to all the necessary parties and decide the issue positively by 31st May, 2023.

A reasoned order shall be passed and communicated to all the parties immediately thereafter.

It will be open for the Municipality to forward a copy of the sketch containing the deviations duly signed by the concerned engineer to the parties.

Report filed by the Officer-in-charge, Belur Police Station dated 02.01.2023 be retained with the records.

The writ petitions stand disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)