

Item No.351

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

30.08.2023
Ct-24

WPA 502 of 2023
Fulbas Ali Molla & Ors.

v.

The State of West Bengal & Ors.

Mr. Gazi Faruque Hossain
Ms. Priyanka Mandal
... for the petitioners.

Mr. Rajarshi Basu
Mr. Shehnaz Tareq Mina
... for the State.

Mr. Sauradeep Dutta
Mr. Riju Bhowmik
Ms. Mina Biswas
... for the Municipality.

None appears on behalf of the private respondents despite service.

Affidavit-of-service filed in Court today is taken on record.

The petitioner no.1 complains of illegal and unauthorized construction at the behest of the respondent nos. 10 and 11.

It has been submitted that construction is being made without obtaining any proper sanctioned plan. Complaint lodged before the Dankuni Municipality is alleged to be kept pending.

The Executive Officer, Dankuni Municipality has forwarded a report before this Court wherefrom it appears that the Municipality sent a notice to the private

respondents on April 5, 2021. The same has not been responded. The Municipality tried to conduct a spot inspection on April 6, 2021 but the inspection was resisted by one Sk. Jahangir, the representative of the private respondents. A complaint was lodged by the Executive Officer of the Municipality before the Inspector-in-Charge, Dankuni Police Station on April 6, 2021. The case is pending in the Court of the learned Judicial Magistrate (III) of Serampore Court being GR 615 of 2021.

Learned advocate representing the State respondents submits that in response to the complaint lodged by the Dankuni Municipality, necessary steps have been taken and presently the case is pending consideration before the learned Court below.

It appears from the submissions made on behalf of the parties that the Municipality is yet to ascertain as to whether any unauthorized construction has been made or not. The private respondents, through their agent, have resisted the officer of the Municipality to conduct spot inspection.

The competent officer of the Dankuni Municipality is, accordingly, directed to conduct spot inspection in presence of the police officer of the Dankuni Police Station.

The date of inspection shall be intimated to the Officer-in-Charge of the police station so that necessary arrangement can be made for conducting the spot inspection in the presence of the police. Notice of spot inspection shall be served upon the petitioners as well as the private respondents in advance.

In the event, the Municipality is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner no.1.

The learned advocate for the petitioners is directed to forward the copy of the representations dated 10 May, 2022, 20 October, 2022 and all other relevant documents to the Dankuni Municipality at the time of communicating the order of the Court.

The writ petition stands disposed of.

The instruction forwarded by the Executive Officer, Dankuni Municipality and the report of the Inspector-in-Charge, Dankuni Police Station be retained with the records.

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

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(Amrita Sinha, J.)