

Item No.
299 and 300.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.09.2023
Ct-24
AGM

WPA 754 of 2023

Madhusudan Mondal

v.

The Asansol Municipal Corporation & Ors.

With

WPA 11062 of 2023

Jharna Mondal

Vs

The State of West Bengal & Ors.

Mr. Srijib Chakraborty

Mr. Vikas Baisya

**...For the petitioner in WPA 754 of
2023 and respondent no. 6 in WPA 11062 of 2023.**

Mr. Uttiya Ray

Mr. Arnab Mandal

**... For the petitioner in WPA 11062
of 2023 and respondent nos. 4 & 5 in WPA 754 of
2023.**

Mr. Sounak Bhattacharya

Mr. Santanu Chatterjee

Mr. Sounak Mondal

... for AMC in both the writ petitions.

The original premises of both the writ petitioners
was numbered as holding no. 803. The said joint
property was amicably partitioned. The holding was

separated and presently the holding consists of three nos. 803, 803A and 803B.

The parties allege illegal and unauthorised construction made by the other.

Asansol Municipal Corporation has passed order of demolition on 28th June, 2019 and again on 12th December, 2022.

Issue has been raised with regard to the identity of the subject structure where the unauthorised construction is alleged to be made.

The impugned orders of demolition do not mention the premises/holding number. The nature of unauthorised construction is also not clearly mentioned.

In compliance of the direction passed by this Court, a spot inspection was conducted. Report of spot inspection has been filed before this Court. The said report also does not mention the premises number where the unauthorized construction has been detected. The nature and extent of unauthorised construction is also not mentioned.

The affidavit filed on behalf of the Corporation has been affirmed by the Superintending Engineer of the Corporation.

It has been submitted by the learned advocate representing the Corporation that the post of Commissioner is vacant and the Mayor is in overall charge of the Corporation.

To put at rest the issue of unauthorised construction alleged by both the parties, the Chief

Engineer of the Corporation is directed to consider the grievance of both the petitioners, identify the property in question, if required by conducting fresh spot inspection and thereafter ascertain the nature and extent of the unauthorised construction.

If it appears that there exists any unauthorised construction, then necessary steps shall be taken to deal with the same in accordance with law.

Reasonable opportunity of hearing shall be given to all the parties to place relevant documents in support of their claim.

A decision shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order. Reasoned order shall be passed and communicated to the parties immediately thereafter.

Learned advocates representing the petitioners in both the writ petitions are directed to forward all relevant documents in support of their claim to the Chief Engineer of the Corporation.

The earlier orders of demolition passed by the Corporation are accordingly set aside.

The allegation of unauthorised construction raised by both the parties shall be decided de novo.

Affidavit filed on behalf of the Corporation and on behalf of Ranjit Mondal be retained with the records.

Both 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.)