

31.1.2023
Ct.19/sl.13
sn

WPA 1569 of 2023

Goutam Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Raghunath Chakraborty
Md. Apzal Ansari
...for the petitioner
Ms. Jhuma Chakraborty
Mr. A.Ghosh
..for the State
Ms. Pronoti Goswami
..for the respdts.7&8
Ms. Mekhla Sinha
..for the respdts.2-4

The petitioner alleges unauthorized construction. Ms. Pronoti Goswami, learned advocate for the respondent nos. 7&8 submits that once the civil court had already passed a protective order in favour of the petitioner with regard to the self same construction, no further orders need be passed by the Writ Court and the writ petition should be dismissed as not maintainable.

The competent authority of the Howrah Zilla Parishad shall ensure that the order of the civil court restraining the defendants in the suit being Title Suit no. 451 of 2020 from raising any construction beyond any sanction, is implemented.

The law is also well settled that determination of unauthorized construction and power of demolition of any construction found to be unauthorized, has been vested with the permission granting authority. Thus, this order is being passed

upon the competent authority of the Howrah Zilla Parishad to act and proceed in accordance with law. An inspection shall be held. Such inspection shall be held in the presence of the parties and an opportunity of hearing shall be given to the parties. The parties shall be entitled to make their oral submission before the concerned authority.

If the construction is found to be beyond the sanction or without permission from the zilla parishad, steps shall be taken in accordance with law. If the Zilla Parishad finds that the implementation of its order would be in conflict with the order of the civil court, then the petitioner shall be at liberty to approach the civil court for necessary orders for variation/modification/alteration or clarification of the order of status quo or any other order passed in the suit.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This writ petition is disposed of.

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

All parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)