

Item No. 37

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

18.10.2023
Ct-24

WPA 2837 of 2023
Shahansha Jahan & Ors.
v.
Barrackpore Municipality & Ors.

Mr. Tarique Quasimuddin
Mr. Abbas Ibrahim Khan
Ms. Meena Shabnam
... for the petitioners.

Mr. Syamal Kumar Das
Ms. Smita Pal
... for the Municipality.

Mr. Jayanta Samanta
Mr. Dip Jyoti Chakraborty
... for the State.

After a lot of effort the Collector was able to conduct spot inspection.

From the report filed before the Court today by the Dy. DL & LRO, North 24 Parganas signed on October 10, 2023 it appears that the Sub-Assistant Engineer of the Barrackpore Municipality, Sri Susanta Roy, reached the spot after several rounds of phone calls but he refused to take part in the enquiry.

The Sub-Assistant Engineer informed that he will merely remain present on behalf of the Municipality and will not participate in the measurement exercise.

The deputy District Land & Land Reforms Officer who was entrusted by the Collector to inspect the property and collect information, arranged for the

measurement by the non-technical associates who were present at the time of spot inspection.

It was revealed that the subject land is recorded as Pir Sthan. As many as ten separate shop rooms have been constructed without obtaining any permission from the Municipality. In the ground floor there are four shop rooms and in the first floor there are six shop rooms. The building has basement, ground floor, first floor and staircase from the basement to the second floor. Person responsible for making construction failed to produce any document in support of the construction made.

The report filed on behalf of the Collector makes it explicitly clear that the constructions complained of by the petitioners are absolutely illegal and unauthorized, the same being constructed without obtaining any permission from the Municipality.

Learned advocate representing the Municipality submits that the issue being very sensitive, the Municipality did not interfere in the matter.

The submission of the Municipality cannot be accepted at all. The place in question may certainly be used for religious purpose but the same does not give any licence to raise unauthorized construction thereon. The property which is meant for religious use is being constructed upon illegally and used for commercial purpose at the instance of a handful of persons. The same is impermissible in law.

The Municipality is directed to take prompt necessary steps to deal with such unauthorized construction and initiate proceedings for demolition of the same.

Steps shall be taken in the matter at the earliest upon giving reasonable opportunity of hearing to all the necessary parties positively within a period of four months from the date of communication of this order.

The writ petition stands disposed of.

Report filed by the Dy. DL & LRO, North 24 Parganas, signed on 10th October, 2023 is taken on record. Copy of the same has been circulated amongst the parties.

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.)