

13.04.2023

WPA 3557 of 2023

**Shivkush Dealcomm Private Limited & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Apurba Krishna Das
Mr. Arup Krishna Das
... .. for the petitioners
Ms. Rupsha Chakraborty
... .. for the State
Mr. Vivekananda Bose
Mr. Saibal Krishna Dasgupta
... .. for the respondent no.6

None appears on behalf of the Asansol Municipal Corporation.

State is represented by the learned advocate.

Affidavit of service filed in Court is taken on record.

The petitioners complain of illegal and unauthorised construction at the instance of the private respondent. In response to the complaint lodged by the petitioners before the Asansol Municipal Corporation, the Corporation issued stop work notice in September, 2022. Both the parties were directed to appear for hearing with all documents. The petitioners complain that the proceeding has not been disposed of by the Corporation till date.

Learned advocate for the private respondent raises an issue with regard to the maintainability of the writ petition before this Court. It has been submitted that the petitioners have already filed a Title Suit with the same prayers and the Suit is pending consideration before the

learned Court below. The writ petition on the self-same cause of action will not be maintainable.

After hearing the parties it appears that the contention of the private respondent cannot be accepted, as the Corporation has already taken steps in the matter in response to the complaint lodged by the petitioners. The Corporation is the competent authority to take a decision as to whether any construction has been made in violation of the municipal law.

A hearing appears to have been fixed by the Corporation in November, 2022. The Corporation ought to have disposed of the said proceeding in accordance with law.

In view of the above, the instant writ petition is disposed of by directing the Commissioner, Asansol Municipal Corporation or his delegate to take steps for conclusion of the proceeding initiated pursuant to the complaint of unauthorized construction filed by the petitioners. Efforts shall be taken to dispose of the same after giving reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of 8 weeks from the date of communication of this order.

The writ petition stands 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.)