

17
28.03.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 4814 of 2023

**Biswanath Ghosh & Ors.
-versus
The State of West Bengal & Ors.**

**Ms. Shebatee Datta,
Ms. Babita Dey.
...For the Petitioners.**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh.
...For the Bally Municipality.**

**Mr. Suman Banerjee.
...For the Respondent
Nos.5 and 6.**

**Mr. Biswajit De,
Ms. Rajlakshmi Ghatak.
...For the State.**

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

Leave is granted to the learned advocate-on-record for the petitioners to amend the description of the respondent nos. 5 and 6 in the cause title of the writ petition.

The matter relates to unauthorized construction with regard to the premises no.9 and 9/1, Shib Chandra Chatterjee Street, P.O.-Belurmath, P.S.-Belur,

Howrah-711202 presently under the jurisdiction of Bally Municipality.

Learned advocates appearing for the Municipality and the private respondents submit, upon instructions, that there is no construction at premises no.9 and the construction is only being made in premises no.9/1.

Instruction has been forwarded by the Bally Municipality, Engineering Department signed on 22nd March, 2023 wherein it has been mentioned that departmental inspection revealed that the owner has a sanctioned plan for construction of G+1 storied building. Part construction is over but the owner has deviated from the sanction plan and the work is in progress.

A stop work notice has been issued directing the person responsible to immediately stop the construction work.

The specific contention of the petitioner is that the mandatory side open spaces have not been maintained by the private respondents at the time of making construction.

Learned advocate appearing for the petitioners prays leave to file fresh objection highlighting the details of the unauthorized construction.

Leave is granted to the petitioners to file appropriate objection before the Bally Municipality giving the details of the unauthorized construction at the subject premises.

In the event such objection is made, the Municipality shall take steps to cause further spot inspection upon prior notice and thereafter circulate the report of spot inspection amongst the parties.

The parties shall be allowed to submit their written statements and thereafter the Municipality shall adjudicate the issue upon giving an opportunity of hearing to all the necessary parties. The Municipality shall take note of and deal with all the unauthorized constructions at the subject premises.

A reasoned order shall be passed and communicated to the parties.

The Municipality shall take steps in the matter at the earliest.

The instruction given by the Bally Municipality be retained with the records.

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.)