

11.05.2023
Court No. 19
Item 03
CP

WPA No. 11403 of 2023

Sri Biswanath Ghosh & anr.
Vs
The State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya
Mr. Pratik Majumder
... for the Petitioners.

Mr. Raja Saha
Mr. S. P. Lahiri
....for the State.

Service upon the other respondents apart from the respondent nos. 7, 8 and 9, have been effected.

As the court is not inclined to pass any orders staying the demolition process and permitting the prayers in the writ petition, the writ petition is taken up and disposed of in their absence.

The Sub-Divisional Officer, Tehatta, Nadia shall proceed with the work of demolition in the following manner:

- a) An inspection of the PWD road will be made in order to ascertain whether the alleged staircase on the said road had been dismantled or not. If such staircase has not been completely dismantled, the same shall be dismantled as per the order of the Zilla Parishad.
- b) The Sub-Divisional Officer will further ascertain whether the basement had been

filled up with soil and completely sealed. If not, the same shall be completed and sealed in order to ensure that the same cannot be used in future.

- c) With regard to the demolition of the excess construction in the 1st, 2nd and 3rd floor, such demolition shall be undertaken in the presence of an engineer deployed by the Nadia Zilla Parishad so that the demolition process would not result in deterioration of the structural stability of the building. The safety and security of the concerned building as also neighbouring houses should be ensured. The Sub-Divisional order shall ask for deployment of such engineer from the office of the Nadia Zilla Parishad. The area in excess of the sanctioned area should be identified and, thereafter, demolished. Neither the Sub-Divisional Officer nor the petitioners are experts in the field who would be able to carry out smooth and effective demolition of the excess construction by preserving the safety and security.
- d) The engineer shall draw a rough sketch map upon inspection of the building and the plan and identify the specific areas in

each of the floors that should be demolished. Thereafter, the demolition shall be carried out on the basis of such identification and demolition sketch map.

The Sub-Divisional Officer is directed to proceed forthwith, on the basis of the above directions. The demolition process shall be completed in the presence of the petitioners, with expedition as it is an admitted position that the petitioners had constructed beyond their sanction and had also encroached on the PWD road. The deviations were rampant and way beyond the sanctioned area.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)