

Item No. 3

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

28.04.2023
Ct-24

WPA 15750 of 2021
IA No. CAN 1 of 2023
Sambhu Shaw & Ors.

v.

The State of West Bengal & Ors.

Mr. Ashis Kumar Chowdhury
Mr. Avijit Kar

... for the petitioners/ applicants.

Mr. Dipankar Mandal

... for the heirs of deceased respondent
no. 5.

Mr. Mir Anuruzzaman

... for the Municipality.

An application for substitution has been filed to substitute the deceased respondent no. 5 who died on April 5, 2022.

The petitioners/applicants have averred in the application for substitution that they were not aware of the death of the private respondent no. 5 and they came to know of his death on January 11, 2023 when the matter was taken up for consideration by the Court. After obtaining the details of the heirs of the deceased private respondent, the application for substitution has been affirmed on March 3, 2023. The names of the heirs of the private respondent no. 5 are mentioned in paragraph 7 of the application.

The delay in filing the application for substitution stands condoned.

The application being IA No. CAN 1 of 2023 stands disposed of.

The department is directed to amend the cause title by substituting the deceased respondent no. 5 and by incorporating the names of the widow and two sons of the deceased.

Learned advocate has already entered appearance on behalf of the heirs of the deceased.

The petitioners complain of illegal and unauthorized construction.

The objection filed before the Municipality is pending consideration till date.

The learned advocate representing the private respondents submits, upon instruction that, the allegations of the petitioners are absolutely false and incorrect. The construction of the private respondents is a very old one. The same was constructed when the area was within the jurisdiction of the Gram Panchayat. After the Panchayat merged with the Rajpur Sonarpur Municipality, tax receipt was issued by the Municipality.

The instant writ petition has been filed as a counter blast as the predecessor-in-interest of the private respondents complained about the illegal and unauthorized construction at the end of the petitioners.

Learned advocate representing the Municipality submits that after receiving the objection from the petitioners, the Municipality issued a stop work notice.

It has been admitted that after issuance of the stop work notice steps have not yet been taken to conclude the proceeding.

In view of the above, the instant writ petition is disposed of by directing the Rajpur Sonarpur Municipality to take steps to deal with any unauthorized construction at the subject premises in accordance with law after giving reasonable opportunity of hearing to all the necessary parties at the earliest but positively within a period of twelve weeks from the date of communication of this order.

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

Learned advocate for the petitioners is directed to forward a copy of the representation dated August 19, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

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.

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(Amrita Sinha, J.)