

20.03.2023
Item No. 02
AGM

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

**W.P.A. 17364 of 2021
With
CAN 1 of 2022**

**Bhaskar Karmakar & Ors
-versus
The Durgapur Municipal Corporation & Ors.**

Mr. Sandip Mondal
...For the Petitioners.

Mr. Susanta Pal,
Mr. Prabir Kumar Dey, ... For the State.

Mr. Subrata Bhattacharya,
Ms. Arunika Ghosh,
Ms. Shipra Santra,
... For the applicant seeking
addition of party.

Mr. Sandipan Baneerjee,
Mr. Sobhan Majumdar,
...For Durgapur Municipal Corporation.

Mr. Pinaki Ranjan Chakraborty,
... For the respondent nos. 7 to 9.

The petitioners allege illegal and unauthorised construction at the instance of the private respondents.

The Corporation conducted a spot inspection on 24th February, 2023 and it was revealed that a single storey old structure was found without maintaining proper set back as per West Bengal Municipal Rules 2007 (as amended) and the parties were unable to provide sanction plan from the competent authority.

Learned advocate representing the respondent nos. 7 to 9 submits, upon instruction that, the structure in question is a very old one and the same was constructed prior to 1960.

An application for addition of party has been filed by one Babu Lal Agarwal, who claims to be a tenant of the subject premises. It has been submitted that the applicant is in possession of a portion of the subject premises for a considerably long period of time.

It appears from the documents annexed to the writ petition that the petitioners allege unauthorised construction, whereas, the respondents including the Durgapur Municipal Corporation submits that the structure in question is an old one.

It is for the Corporation to decide as to how the structure is to be dealt with in accordance with the relevant laws.

In view of the above, the present writ petition is disposed of by directing the Commissioner, Durgapur Municipal Corporation or his delegate to adjudicate and take necessary steps in response to the complaint lodged by the petitioners in accordance with law, after giving a reasonable opportunity of hearing to all the necessary parties.

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

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

The inspection report dated 17th March, 2023 signed by the Commissioner, Durgapur Municipal Corporation be retained with the records.

The application being CAN 1 of 2022 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.)