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28.11.2023
A.G.M.

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

W.P.A 16404 of 2023

**Sri Sourav Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Ranajoy Chatterjee.
Mr. Tamal Singha Roy.
...For the Petitioner.**

**Mr. Biswabrata Basu Mallick
Mr. Arindam Mondal,
Mr. Arindam Ghosh.
...For the State.**

**Mr. K. M. Hossain
...For the Respondent
No.12.**

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

**Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar
... For the HMC.**

The petitioner claims to be a social activist residing at 21, Dewangazi Road. He complains of an illegal construction in respect of holding No. 61/3, Dr. P. N. Ghosh Road under jurisdiction of Bally Municipality.

A complaint was filed before the Municipality in March, 2022. The petitioner alleges that the Municipality did not take steps to consider the same.

The petitioner has arrayed one Pinka Roy, son of late Mantu Roy as the respondent no. 12 in the instant writ petition alleging that the said respondent was responsible for making unauthorized construction. The complaint filed before the Bally Municipality does not mention that the private respondent is responsible for making unauthorized construction.

Learned advocate representing the private respondent submits that the petitioner is pressurizing the private respondent with view to extract money from him.

Learned advocate representing the Bally municipality and the State respondents submits, upon instruction that, the petitioner is in the habit of filing writ petitions and at the same time extracting money from the private parties.

There is no allegation against the Howrah Municipal Corporation in the entire writ petition, but for the reasons best known, the Howrah Municipal Corporation has been impleaded as respondent in the writ petition.

Upon perusal of the documents annexed to the writ petition, the Court is not convinced with the bona fide of the petitioner in filing the writ petition. The intention of the petitioner does not appear to be honest.

The complaint which the petitioner relies upon was filed way back in March 2022 and the instant writ

petition has been affirmed on 11th July, 2023. Had the petitioner been so interested to stop unauthorised construction, he ought to have rushed to the Court at the very first instance. The writ petition has been filed after considerable delay.

The submission of the Bally Municipality that the petitioner is in the habit of extracting money from private parties is required to be investigated by the police.

The instant writ petition is disposed of by directing the Bally Municipality to consider and decide the complaint of unauthorised construction at 61/3, Dr. P. N. Ghosh Road. There is no requirement of granting any opportunity of hearing to the petitioner. Hearing shall, however, be granted to the person(s) found responsible for making unauthorised construction.

The photograph annexed at page 14 of the writ petition appears to have been taken on 28th April, 2023. In the body of the photograph, the date mentioned is 7th July, 2022 and the place inscribed in the photograph is Bally Jagacha. The photograph does not appear to be connected with 61/3, Dr. P. N. Ghosh Road.

The Officer-in-Charge, Bally Police Station is directed to enquire into the antecedents of the petitioner to enquire as to whether he is involved in any type of racketeering of extracting money from unsuspecting builders/developers on the threat of initiating litigations against them. The police shall conduct the enquiry at the earliest and conclude the same by twelve weeks.

If any adverse report is obtained by the police, then necessary steps shall be taken by the police against the petitioner in accordance with law.

The Municipality shall decide the issue of unauthorised construction 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.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)