

WPA 16680 of 2023

Bikash Dutta and another

-vs-

Bhatpara Municipality & ors.

Mr. Mainak Singha Bharm

....for the petitioners

Mr. D. Kumar Mukherjee

Mr. Rajib Mukherjee

Ms. Shreshi Bhaduri

...for the Bhatpara Municipality

Mr. Arunava Ghosh

Mr. Ranajit Chakraborty

Mr. Pushpal Chakraborty

Mr. Victor Chatterjee

Mr. Barnamoy Basak

...for the added respondents

This is an application praying for a direction upon the respondent authorities to rescind, cancel and withdraw the notice dated 21.06.2023 being Reference No. M-10/PWD (BLD) DR- 1/1327 and notice dated 27.04.2023 being Reference No. M-10/PWD (BLD)/DR-1/456 and to consider the representation of the petitioners dated 31.05.2023 and 21.06.2023.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner was denied a fair right of hearing. The Bhatpara Municipality issued to the petitioner notice dated 27.04.2023 to appear before the Municipality for hearing on 28.04.2023 at 3 PM. One of the owners of the property stays at Varanasi. That is why it has been the consistent prayer of the petitioner that at least 72 hours'

notice should be given to the petitioners so that they can effectively represent themselves at the time of hearing. Even the earlier notice suffered from the same vice. Therefore, let a fresh notice be given to the petitioner with at least 72 hours' time and if possible, a week to the petitioners and the other owners to respond.

Learned senior counsel representing the Municipality submits that there is a provision for filing an appeal where the petitioner can be heard.

Learned senior counsel representing the added private respondent denies the contentions of the petitioners and submits that the petitioners are only trying to delay the inevitable.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition.

It appears that by an order dated 12.12.2022 passed by this Court in WPA 9799 of 2022, this Court directed the Municipality to take steps strictly in accordance with law to deal with any unauthorized construction that would be detected after giving a reasonable opportunity of hearing to all the necessary parties.

This right of hearing is the issue in the instant writ petition.

By any stretch of imagination, a 24 hours' can hardly be considered as sufficient.

In the particular facts of the present case, it has been contended that one of the owners stays at Varanasi.

Therefore, the order passed on 31.05.2023 for demolition is set aside.

Let the Municipality issue a fresh notice in the month of September 2023 that shall give at least 7 days' time for the petitioners to respond to the same and effectively represent themselves at the time of hearing.

For this, the petitioner shall also supply the address of the owner residing at Varanasi to the Municipality and the private respondent within this week.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)