

Item No. 4

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

6.01.2023
Ct-24

WPA 17321 of 2022
Nabin Chandra Das & Anr.

v.

The State of West Bengal & Ors.

Mr. Sarbananda Sanyal
Ms. Poulami Chakraborty
... for the petitioners.

Mr. Chirantan Sarkar
... for the respondent no. 7.

Mr. Tapash Kumar Bhattacharya
Mr. Aviroop Bhattacharya
... for the Municipality.

The petitioners complain of unauthorized construction at the instance of the respondent no.7 over a plot of land in Ward No. 12 under the jurisdiction of the Katwa Municipality.

According to the petitioners, the private respondent is making illegal and unauthorized construction without obtaining any sanction from the Municipality.

In response to the complaint lodged by the petitioners, Katwa Municipality passed order on July 16, 2020 directing the private respondent to demolish the unauthorized construction, failing which legal action shall be taken against her.

Learned advocate appearing for the petitioners submits that the order of demolition passed in July 2020 is yet to be implemented. In the meantime, the

private respondent has raised further construction upto the first floor level. The said construction has been made without any sanction from the Municipality.

The petitioners pray for a direction upon the Municipality to demolish the unauthorized construction.

Learned advocate representing the private respondent produces a certificate allegedly issued by the Chairman of the Municipality bearing Memo No. 167 certifying that the Municipality has no objection with regard to the construction of dwelling house by the private respondent.

It has been submitted that on the basis of the said certificate, the private respondent made the construction.

Learned advocate representing the Katwa Municipality submits, upon instruction, that the Municipality has already passed order for demolition of the unauthorized construction but in view of the pandemic situation, the same could not be implemented. The Municipality submits that no permission was given to the private respondent for raising construction.

It has been submitted that an opportunity of hearing was given to both the parties on January 4, 2023 but order has not been passed in view of the pendency of the present writ petition.

I have heard the submissions made on behalf of all the parties. The Municipality has submitted that no sanction or permission was granted in favour of the private respondent for raising construction. The certificate which has been relied upon by the private

respondent for raising construction is an undated and unsigned one.

The same cannot be treated to be a valid document permitting the private respondent to raise construction.

In view of the above, the Board of Councillors of Katwa Municipality is directed to take a decision with regard to the construction raised by the private respondent in accordance with law.

Since hearing has already been provided to the parties it is for the Municipality to take a decision in the matter immediately but positively within a period of eight weeks from the date of communication of a copy of this order.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The Officer-in-Charge, Katwa Police Station is directed to render all necessary assistance to the men and agents of the Municipality at the time of execution of the order of demolition, if any, passed by the Board of Councillors of the Municipality.

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.)