

Item No.07

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.08.2023
Ct-24
AGM

WPA 17385 of 2023

Tapan Mondal & Ors.

v.

The State of West Bengal & Ors.

Mr. Susovan Sengupta
Mr. Sagar Bandopadhyay
Mr. Arijit Chakraborty
Mr. Supriya Kumar Roy
Mr. Tamal Banerjee
Ms. Puja Rajbhar
... for the petitioners.

Mr. Supratim Dhar
Mr. Dhananjay Nayak
Mr. S. Mukherjee
... for the Private respondent no. 6.

Mr. Lalit Mahan Mahata
Mr. Rudranil De
... for the State.

Mr. Mir Anuruzzaman
... For the Rajpur Sonarpur Municipality.

The petitioners are aggrieved by the reasoned order dated 31st May, 2023 passed by the Board of Councillors, Rajpur Sonarpur Municipality by directing demolition of the unauthorised construction.

According to the petitioners the said order was passed without affording reasonable opportunity of hearing to the parties.

On a perusal of the reasoned order it appears that the petitioners were represented by Sri Biman Bhattacharya, the registered power of attorney holder.

Different documents have been relied upon by the parties to show that Sri Biman Bhattacharya is the power of attorney holder of the petitioners.

The instant writ petition has been filed being affirmed by Sri Biman Bhattacharya, the same constituted attorney of the petitioners.

Prima facie, the submission of the petitioners that no notice or opportunity of hearing was given to the petitioners appears to be incorrect.

After hearing the parties at length it appears that there are several disputed questions of facts involved in the instant writ petition. The same cannot be adjudicated without taking proper evidence.

A Title Suit is pending consideration where an order of injunction is subsisting. Reference has also been made to the order dated 25th July, 2016 passed in MAT 1129 of 2016 wherein a specific submission was made that construction was not being made over any portion of plot no. 232.

The Municipality admits that plan was sanctioned in respect of plot no. 232. The plan has lapsed by now.

The order impugned is an appealable one.

The writ Court does not think it fit to exercise jurisdiction in the matter.

It will be open for the aggrieved party to approach the appropriate appellate forum for relief, if so advised.

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.)