

13.07.2023
Court No.19
Item no.170
CP

CPAN 790 of 2022
in
WPA 1745 of 2022

Kabita Mandal
vs.
Tushar Kanti Bera, Chairman, Ghatal Municipality

Mr. Koushik Roy
... for the applicant
Mr. Manabendra Thakur
Mr. Swarup Kumar Ghosh
... for the alleged contemnor.

Mr. Amarnath Sakul
... for the private respondent.

Mr. Biswajit Dutta
Ms. Dipa Bhattacharya

.....for the State.

The petitioner has taken a contrary plea at this stage of the contempt hearing, when several exercises have been undertaken by this court to ensure that the order of the Board of Administrators dated November 23, 2021, which was directed to be complied with by this court, by an order dated may 11, 2022 in WPA No. 1745 of 2022, is implemented.

The contempt application had been filed on the allegation that although the Board of Administrators, Ghatal Municipality had found unauthorized construction of a shop room, namely, 'Swapna Ladies Garment' which was constructed on

R.S. Plot No. 192 of Mouza – Konnagar, the Board of Administrators had not demolished the same. The petitioner's contention was recorded that although the order was passed sometime in November 2021, the construction had not been demolished and the municipality had not taken any steps.

Considering the submissions of the petitioner as also the municipality, the court directed that the municipality must take steps to ensure that the order of demolition dated November 23, 2021 should be implemented, in accordance with law.

The order of the Board of Administrators dated November 23, 2021 is quoted below:

"The inspection report was submitted. Perused the report and ascertained that the said shop room namely 'Swapna Ladies Garment' was constructed without obtaining sanctioned plan of this office by the respondent no.8. Now on behalf of The Board of Administrators, the undersigned directed Smt. Pushpa Rani Saha-respondent no.8-to demolish the said unauthorized construction."

The said order deals with the 'Swapna Ladies Garment'. Thus, the further contention of the petitioner that the entire construction on Plot No. 192 is unauthorized, cannot be decided in this contempt application. The petitioner is at liberty to proceed in accordance with law.

The police authorities have filed a report which indicates that 'Swapna Ladies Garment'

which was found to be unauthorized, has been demolished and a temporary structure has been constructed. The police report indicates that a tin shed with some bamboo fences has been erected in front of the building. Such temporary structure is not a building as contemplated under the Act.

The municipality submits that a sanction had been given to Puspa Rani Saha sometime in 1978 and such sanction had been renewed from time to time.

Mr. Roy, learned advocate for the applicant, disputes such contention.

Smt. Puspa Rani Saha represented through her learned advocate, also submits that the present shop is running from the premises which had been sanctioned by the authorities.

However the scope of contempt is limited to wilful violation of the order of this court. As both the municipality and the police authorities submitted that the unauthorized construction of the garment shop had been broken down and the photographs have been submitted, further consideration of the contempt application will yield no result.

The petitioner is at liberty to file a proper application challenging the entire structure on R.S. Plot No. 192 of Mouza – Konnagar, in accordance

with law. The municipality will ensure that no construction takes place beyond what has already been sanctioned.

The contempt application is disposed of.

The contempt proceedings are dropped.

The corporation shall act and proceed in accordance with law and on the basis of the order.

(Shampa Sarkar, J.)