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26.09.2023
Court No. 24
A.G.M.

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

W.P.A 20210 of 2023

**Ramkrishna Ashram Thakurbari Trust
-versus
The Midnapore Municipality & Ors.**

**Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das
Mr. Soumava Santra
...For the Petitioner.**

**Mr. Sujay Bandopadhyay
Mr. Pradipta Siddhanta
... For the Midnapore Municipality.**

The decision dated 7th June, 2023 by the Midnapore Municipality is impugned in the instant writ petition.

The allegation of the petitioner is that the private respondent raised construction contrary to the provisions of the municipal building rules.

The decision of the Chairman mentions that though the persons(s) responsible failed to produce any sanctioned plan on the plea of non-availability of the same as the building is an old one, but the Municipality opined that the construction was not violating any provision of law.

The petitioner stresses upon the fact that the construction is not an old one. The same has been constructed lately without maintaining the mandatory side open spaces.

From the decision, it appears that the details of the side open spaces as required to be maintained according to the municipal rules are not mentioned.

The Municipality blindly relied upon the submission that the building was an old one. There is no recording with regard to the age of the subject structure.

None of the allegations of the petitioner regarding the unauthorized construction appears to have been dealt with by the Municipality in the impugned decision.

After hearing the submissions made on behalf of the petitioner as well as the Municipality, it appears that a spot inspection, upon prior notice to all the parties, is required to be conducted afresh for recording the details of the unauthorized construction as alleged by the petitioner.

Spot inspection report shall be forwarded to all the necessary parties. Thereafter an opportunity of hearing shall be given to the parties.

A fresh order shall be passed by the Midnapore Municipality strictly in accordance with the provisions of law.

The impugned decision dated 7th June, 2023, accordingly, stands set aside.

On the prayer made on behalf of the Municipality, the Officer-in-Charge, Kotwali P.S. is directed to render all necessary help and assistance to the men and agents of the Municipality at the time of causing spot inspection and even thereafter, if sought for.

Leave granted to the learned advocate on record of the petitioner to correct the description of the respondent no. 3 in the cause title of the writ petition. The proper police station will be Kotwali police station.

The entire exercise shall be conducted and concluded 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.)