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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 20215 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 Siddhantga
... For the Midnapore Municipality.**

The decision of hearing dated 7th June, 2023 signed by the Chairman, Midnapore Municipality addressed to the private respondent mentions that the private respondent Ashok Kumar Ghosh is to remove the unauthorized construction by demolishing the same personally within fifteen days from the date of receipt of the order.

Time to remove the unauthorized construction is long over. The same is yet to be removed.

The petitioner submits that at the time of taking the decision, the municipality failed to take into consideration the unauthorized construction in the eastern and the southern side of the subject construction.

The mandatory side open spaces required to be maintained in the eastern and southern side have not been maintained. The construction has been made without a proper sanction plan. Allegation is also with regard to the change of user.

None represents the private respondent.

As it appears that there is no finding with regard to the unauthorized construction on the eastern, southern side and the change of user, accordingly, the Board of Councilors of the municipality is directed to revisit the issue and decide the same afresh.

A spot inspection, upon prior notice to all the parties, shall 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 decision dated 7th June, 2023 directing demolition of the unauthorized construction shall, however, be implemented at the earliest.

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.

The entire exercise shall be conducted at the earliest but positively within a period of twelve weeks from the date of communication of this order.

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 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.)