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13.09.2023
d.p.

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

W.P.A 21940 of 2023

**Raju Chowdhuri @ Rajukumar Raychowdhuri
-versus
The Bansberia Municipality & Ors.**

**Mr. Jyoti Prakash Chatterjee
Ms. Dibyanjona Das
Mr. Debottam Das
...For the Petitioner.**

**Mr. Kajal Ray
Mr. Suman Nandi
...For the Private Respondent
No.8.**

**Mr. Biplab Ranjan Bose
... For the Municipality.**

Learned advocate representing the petitioner submits that the presence of the respondent nos. 4, 5, 6 and 7 will not be required for the purpose of effective adjudication of the instant writ petition.

Prayer has been made for expunging the respondent nos. 4, 5, 6 and 7 from the array of respondents.

Respondent nos. 4 to 7 are, accordingly, expunged from the cause title of the writ petition.

The petitioner prays for a direction upon the Bansberia Municipality to conduct fresh spot inspection for identification of the unauthorized construction which is suffering an order of demolition.

It appears that in respect of the selfsame property, a decree was passed by the learned court below whereby the Municipality was directed to remove the unauthorized structure and deliver vacant possession of the suit property to the plaintiff.

The Hon'ble Division Bench of this Court by order dated 14th August, 2023 passed in MAT 1515 of 2023 with IA No. CAN 1 of 2023 in the matter of Kitu Das @ Swapan Das -vs- The Bansberia Municipality & Ors. directed the Municipality to remove the unauthorized construction upon notice to all concerned, in accordance with law, unless interdicted by any competent court of law within six weeks from the date of the order.

The Hon'ble Division Bench clearly recorded in the order that the decree passed by the competent civil court on 30th March, 2007 has attained finality, not being assailed before any higher forum.

The prayer of the petitioner for conducting fresh spot inspection if allowed, will amount to giving rise to a fresh cause of action by reopening the issue which has been put to rest by the competent civil court way back in 2007 and reiterated by the Hon'ble Division Bench of this Court.

The learned court below specifically indicated that the unauthorized construction and delivery of vacant possession of the suit property to be handed over to the plaintiff. The suit property is clearly set out in the scheduled of the plaint.

There is no requirement for conducting fresh spot inspection for identifying the unauthorized construction.

In view of the above, the relief sought for by the petitioner cannot be allowed.

The writ petition fails and is hereby dismissed.

The Municipality is duty bound to act in terms of the direction passed by the Hon'ble Division Bench on 14th August, 2023.

It will be open for the Municipality to seek necessary police assistance at the time of demolition of the unauthorized structure.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)