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22.11.2023
d.p.

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

W.P.A. 22397 of 2023

**Radha Rani Khanra
-versus
The Kharagpur Municipality & Ors.**

**Mr. Akanksha Mukherjee,
Mr. Subhajit Ray.
...For the Petitioner.**

**Mr. Mrinal Kanti Ghosh.
...For the Municipality.**

**Mr. Soumik Ganguli,
Ms. Chandana Chakraborty.
...For Respondent
Nos. 6 and 7.**

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents.

Prayer has been made for execution of the notices dated 18th July, 2022 bearing Memo Nos.1435/1(3) PW and 1436/1(3) PW issued by the Chairman, Kharagpur Municipality directing the noticee i.e. the private respondent no.7 to forthwith stop construction and show cause within seven days with the documents in support of the construction made. At the same time the Municipality directed the private respondent to demolish the illegal construction and report compliance within seven days.

The petitioner alleges that after issuance of the aforesaid two notices, no steps have been taken by the Kharagpur Municipality to redress the grievance of the petitioner.

Learned advocate appearing for the private respondents submits, upon instructions, that one construction exists there since 1977. Further construction of a kaccha structure was made with asbestos shed. No pucca construction has been made by the private respondents.

It has been submitted that in response to the notice dated 18th July, 2022 reply to the show cause was duly filed by the private respondents before the Municipality on 3rd August, 2022.

The Municipality is yet to consider the same.

Prima facie, upon perusal of the two notices dated 18th July, 2022, it appears that the stop construction and show cause notice was served along with the notice to demolish the illegal construction.

Prior to issuance of notice for demolition, the Municipality ought to have considered the cause shown by the private respondents in support of the construction made. Moreover, without a proper proceeding being initiated, the order of demolition could not have been passed by the Municipality on the selfsame day of issuance of the stop construction and show cause notice.

As it appears that the reply to the show cause is pending consideration before the Kharagpur Municipality, accordingly, the Municipality is directed to consider the complaint lodged by the petitioner and the reply to the show cause submitted by the private respondents in accordance with law, after giving

reasonable opportunity of hearing to all the necessary parties.

Prior to final decision being taken, a spot inspection shall be conducted upon prior notice to the parties. The report of spot inspection shall be forwarded to all the parties and thereafter opportunity of hearing be granted.

If it ultimately transpires that unauthorized construction exists, then necessary steps to deal with the same shall be taken by the Municipality in accordance with law.

It will be open for all the parties to produce all relevant documents in support of their stand at the time of hearing.

A decision shall be taken in the matter 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.)