

11 & 12
06.12.2023
d.p.

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

W.P.A. 23284 of 2023

**Dr. Saumendra Kumar Saha
-versus
The State of West Bengal & Ors.**

With

W.P.A. 25434 of 2023

**Sufi Md. Abdul Momen & Anr.
-versus-
The State of West Bengal & Ors.**

**Mr. Soumik Ganguly,
Mr. Dilip Kumar Sadhu,
Ms. Chandana Chakraborty.
...For the Petitioners
in W.P.A. 23284 of 2023 and
the Private respondent in
W.P.A. 25434 of 2023.**

**Mr. Amartya Pal.
...For the State
in W.P.A. 23284 of 2023.**

**Mr. Avirup Mondal,
Ms. Anima Das Chakraborty.
...For the State
in W.P.A. 25484 of 2023**

**Mr. Subhasis Bandopadhyay.
...For the Municipality.**

**Mr. Bhagbat Chaudhury.
...For the Petitioner
in W.P.A. 25484 of 2023 and
For the Respondent
Nos. 8 & 9 in W.P.A. 23284 of
2023.**

The petitioners in both the writ petitions allege unauthorized construction against each other.

Dr. Saumendra Kumar Saha alleges that Sufi Md. Abdul Monem has raised construction without any sanctioned plan. On the other hand, Sufi Md. Abdul Monem alleges that Dr. Saumendra Kumar Saha has made construction without proper sanction.

Burdwan Municipality is the competent authority to adjudicate the allegations made against each other.

Learned advocate appearing for the Municipality submits that spot inspection could not be conducted as the parties failed to produce any supporting documents in support of the construction made.

The aforesaid stand of the Municipality cannot be appreciated by the Court. In the event the parties fail to produce supporting documents, it is the duty of the Municipality to consult its own records to ascertain as to whether any plan was sanctioned in respect of the subject premises. If it appears that no plan has been sanctioned and construction has been raised, then the said construction is to be held as an unauthorized one and steps ought to be taken to deal with the same in accordance with law.

If sanctioned plan is available, then the Municipality is required to ascertain as to whether the construction has been made in accordance with the sanctioned plan or not. If deviation is detected, then necessary steps is required to be taken to deal with the same.

Instead of the above, the Burdwan Municipality appears to be sitting tight over the complaints for no apparent reason.

The inertness of the Burdwan Municipality to take steps to dispose of the complaints lodged against each other cannot be supported.

In view of the above, the instant writ petitions are disposed of by directing the Burdwan Municipality to take immediate steps to consider and decide the objections filed by the petitioners in accordance with law, after giving reasonable opportunity of hearing to both the parties and pass a reasoned order and communicate the same to the parties.

In case of detection of unauthorized construction steps shall be taken to deal with the same in accordance with law.

The Municipality shall act at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The Municipality is directed to ensure that no unauthorized construction is carried on by either of the parties till the matter is finally decided by the Municipality.

Report filed by the Burdwan Municipality be retained with the records.

The writ petitions are 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.)