

12.06.2023
Item No. 44
Court No. 24
AGM

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

WPA 25563 of 2022

**Sekhar Bhowmick
Vs
The State of West Bengal & Ors.**

**Mr. Jagabandhu Roy
Mr. Joy Chakraborty
Mr. Sandip Dinda ... for the Petitioner.**

**Mr. Md. Hafiz Ali,
... For the Budge Budge Municipality.**

**Mr. Neil Basu
Mr. Koushik Roy
Mr. Sankha Biswas ... for the respondent no. 5.**

**Mr. Jahar Dutta
Mr. Abdul Salam ... For the State.**

The petitioner claims to be the owner of the property at 7/2/A/1, Pandit Motilal Nehru Road, P.S. Budge Budge under the jurisdiction of Budge Budge Municipality.

A complaint was filed before the Chairman of the Municipality. The petitioner alleges that the same has not been acted upon.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the construction in question is more than forty years old. The private respondent merely made certain repairs in the existing old construction.

Learned advocate representing the Budge Budge Municipality submits a report signed by the Chairman of the Municipality on 12th May, 2023

wherein it has been mentioned that in response to the objection filed by the petitioner, a notice was issued under Section 220 of the West Bengal Municipal Act, 1993 dated 15th July, 2021 to stop and discontinue the illegal construction.

The report of the municipality does not specifically mention as to whether any unauthorised construction has been made at the subject premises.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Board of Councillors, Budge Budge Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties

regarding right, title and interest in respect of the aforesaid land.

The learned advocate for the petitioner is directed to forward a copy of the representation dated 19th October, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Leave is granted to the learned advocate on record of the petitioner to implead the Board of Councillors, Budge Budge Municipality as party respondent.

The formality of serving a copy of the writ petition upon the added respondent stands dispensed with as the Municipality is already represented by the learned advocate.

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

(Amrita Sinha, J.)