

Item No.50

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

12.06.2023
Ct-24

WPA 28684 of 2022
Sri Sobhon Roy
v.
Panihati Municipality & Ors.

Mr. Ranjan Kali
Mr. Shobhon Kumar Pathak
... for the petitioner.

Mr. Soumyajit Bhatta
... for the respondent no. 2.

Mr. Bidhayak Lahiri
Md. Kalam
Ms. Bhaswati Lahiri
... for the respondent no. 10.

The petitioner complains of the order passed by the Board of Councillors, Panihati Municipality communicated to the petitioner and the private respondent by the Chairman of the Municipality on July 4, 2022.

The impugned order mentions that the same was passed in compliance of the order dated October 20, 2020 passed by this Court. The impugned order records that spot inspection was conducted and hearing was given to both the parties.

The petitioner refers to the order passed by this Court on October 20, 2020 in WPA 7032 of 2020 with CAN 1 of 2020 (Sobhon Roy v. Panihati Municipality & Ors.).

The petitioner submits that the Court directed the Executive Engineer, Panihati Municipality to cause a spot inspection and give hearing to all the parties and pass a reasoned order and communicate the same to the parties.

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

It is the specific contention of the petitioner that the Chairman of the Panihati Municipality was not the appropriate authority to consider or pass order and the impugned order is contrary to the direction passed by the Court on October 20, 2020.

It is the further case of the petitioner that no notice of spot inspection was issued and no opportunity of hearing was granted.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that spot inspection was conducted upon notice to all the parties and hearing was also afforded to all the parties. Representative of the petitioner was present at the time of spot inspection and also at the time of hearing but they refused to sign their presence in the attendance register.

Learned advocate for the private respondent submits that construction has been made in accordance with the plan sanctioned.

Learned advocate representing the Municipality has produced documents before this Court to show that notice of spot inspection was issued upon both the petitioner and the private respondent. Notice of further

spot inspection, in compliance of the direction passed by the Court, was also issued upon both the parties. All the notices were duly received by the parties or their authorized representative. The parties were duly represented at the time of spot inspection and at the time of hearing.

The spot inspection report was placed before the Board of Councillors, Panihati Municipality to take a decision as to whether any unauthorized construction was made or not as alleged by the petitioner. The Board of Councillors was of the opinion that there is sufficient and adequate open space in between the two premises and the Board of Councillors of the Municipality was made aware that there was a mutual agreement between both the brothers and the Municipality did not intend to interfere with the said agreement.

From the documents placed before the Court and upon hearing the submissions made on behalf of all the parties it appears that the Board of Councillors acted in a reasonable manner in deciding the objection filed by the petitioner.

According to the provisions of law, the Board of Councillors is the appropriate authority to take a decision in the matter. Due notices of spot inspection and hearing were given to all the parties. The Board of Councillors opined that there is no authorized construction.

If either of the parties are aggrieved by the above opinion of the Board of Councillors, then it will be open for the parties to approach the competent Civil Court for declaration of their civil rights in respect of the property in question.

The allegation of the petitioner of unauthorized construction remains unsubstantiated.

No relief can be given to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Photocopy of the documents produced by the Panihati Municipality be retained with records.

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

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(Amrita Sinha, J.)