

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side
WPA 632 of 2022
Satya Ranjan Dutta
-versus-
Siliguri Municipal Corporation & Ors.

Mr. Joyjit Choudhury,Adv.
Mr. Rohit Agarwal,Adv.
Mr. Abhishek Singh,Adv.
...for Petitioner.

Mr. M. Rahman,Adv.
Mr. Debasish Mukhopadhyay,Adv.
...for res. nos. 3 & 4.

Deborshi Dhar,Adv.
...for Siliguri Municipal
Corpn.

The petitioner has filed the present writ application praying for a direction upon the Siliguri Municipal Corporation to act in accordance with the notice issued by the Corporation dated 9.9.2014.

Learned Counsel for the petitioner submits that the petitioner has constructed a four-storeyed building without approval of the building plan and had established the hospital in the said building. The municipal authorities have also issued notice to the private respondent on 9th September, 2014 for initiation of action under Section 266 of the West Bengal

Municipal Building Act, 2006 but till date no action has been taken by the Siliguri Municipal Corporation.

Counsel for the petitioner also relied upon the communication dated 20th November, 2014 wherein the Siliguri Municipal Corporation has informed the petitioner that the authority will serve notice for taking appropriate action against the private respondent, but till date no action has been taken by the Municipal Corporation for illegal construction of the building by the private respondent. Counsel for the petitioner also relied upon the statement made in the civil suit being Title Suit No. 2130 of 2008 before the learned Civil Judge (Junior Division) wherein the official of the Siliguri Municipal Corporation have admitted that there was a violation by the private respondent for construction of the building.

Counsel for the petitioner prays for a direction upon the Siliguri Municipal Corporation for taking appropriate action against the private respondent for illegal construction.

Per contra, learned Counsel for the private respondent submits that the private respondent has purchased the property in question in the year 1995 being Document No. 4094 of 1996 and 4095 of 1996 and at the time of purchase of the said plot, there was a sanction building plan of 1994 but there was only ground floor and first floor which were in existence and after purchase of the said plot, the private respondent

has constructed the second floor and third floor as per the sanctioned building plan.

Counsel for the private respondent further submits that the private respondent had constructed the building as per the sanctioned building plan and, as such, the allegation made by the petitioner is totally false. Counsel for the private respondent further submits that on the similar issue the petitioner has filed a civil suit against the private respondent, but the said suit was also dismissed and the petitioner has preferred an appeal against the said dismissal of the suit and the same is pending.

Learned Counsel for the Municipal Corporation submits that if the Municipal Corporation receives any complaint of any illegal construction, the Municipal Corporation will take appropriate action for illegal construction in accordance with law.

Counsel for the petitioner denied the allegation to the submission made by the private respondent on the ground that the suit which was dismissed is not connected with the similar issue and suit which was filed by the petitioner is only with regard to egress and ingress of the petitioner.

Counsel for the private respondent further submits that notice which the petitioner has relied upon is not in connection with the present writ application and that is

in connection with the earlier writ application and the matter is pending before the Hon'ble Supreme Court.

Considered the rival submissions made by the respective parties and perused the materials on record. This Court finds that the petitioner has not made any complaint to the Municipal Corporation against the private respondent for illegal construction. The petitioner has filed the instant writ application only on the basis of the notice dated 9.9.2014. The said notice is in connection with the earlier writ proceedings which is the subject matter of the SLP pending before the Hon'ble Supreme Court. This Court also finds that the petitioner has not made any specific complaint to the Municipal Corporation against any illegal construction by the private respondent and, as such, this Court finds that no order can be passed by directing the Municipal Authority for taking any action against the private respondent.

It is made clear that if Petitioner makes such complaint for violation of sanction building plan, the Municipal Corporation shall conduct enquiry and if any violation is found, the Municipal Corporation shall take appropriate action in accordance with law.

In view of the above, WPA 632/2022 is disposed of.

(Krishna Rao, J.)