

27.09.2023.
Item No. 80.
Court No. 1
ap

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CIVIL APPELLATE JURISDICTION
(Appellate Side)

M.A.T. No. 126 of 2023

In

I.A. No. CAN 1 of 2023

Ram Chandra Agarwal
Versus
Siliguri Municipal Corporation & Ors.

Mr. Probal Kumar Mukherjee, Sr. Advocate,
Mr. Suresh Kumar Mitruka,
Mr. Ayush Mitruka,
Ms. Manisha Gupta.

...For the appellant.

Mr. Dhiraj Lakhotia,
Mr. Meghana Joshi,
Ms. Radhika Agarwal.

....For the respondent no.5.

Mr. Deborshi Dhar.

...For the Siliguri Municipal Corporation.

1. The appellant is aggrieved by an order dated 7th July, 2023 passed by the Single Judge of this Court in W.P.A. No. 1270 of 2023 directing the Siliguri Municipal Corporation to initiate proceedings in respect of the unauthorized construction made by the private respondent no.5.

2. The writ petitioner had complained that the construction of the private respondent is against the Municipal Corporation Rules and also is likely to cause fire hazards.

3. Mr. Mukherjee, learned Senior Advocate appearing on behalf of the appellant submits that in

the absence of any finding of any illegality, the question of drawing up any proceedings for unauthorized construction does not and cannot arise.

4. There is some substance in the submissions of the Counsel for the appellant.

5. With a view to end the controversy, the Siliguri Municipal Corporation along with their team of officials shall visit the subject property of the appellant in question and conduct an inspection with a copy of the sanction plan available in the Corporation's/Municipality's records on 27th September, 2023 at 2:00 P.M.

6. A preliminary report shall be prepared and shall be made available to the learned Advocate for the appellant as well as the writ petitioner.

7. Based on such report, the Siliguri Municipal Corporation may take steps that they may have authorized to do in terms of the West Bengal Municipal Corporation Act, 2006.

8. The appellant shall also be entitled to seek any remedies and/or relief that they may have under the Act in respect of any of the reports that shall be filed by the Siliguri Municipal Corporation.

9. With the aforesaid observations and discussions, M.A.T. No. 126 of 2023 shall stand disposed of.

10. In view of the disposal of the instant appeal itself, the connected application being CAN 1 of 2023 shall also stand disposed of.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)