

Item No. ML. 128

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

29.04.2024  
Ct-24  
AGM

WPA 781 of 2024

Santi Sinha  
v.  
The State of West Bengal & Ors.

Mr. Amit Ranjan Pati.  
Ms. S. Chowdhury.  
... for the petitioner.

Mr. Sudeep Sanyal.  
Mr. Sukanta Das.  
Mr. Chandrachur Lahiri.  
... For the Respondent nos. 8 & 9.

Mr. Lalit Mohan Mahata. AGP  
Mr. Jagabandhu Roy.  
... For the State.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents. The complaint lodged against such unauthorised construction is pending consideration.

Learned advocate representing the private respondents submits that the instant writ petition is not maintainable as the petitioner filed two civil suits on the self same cause of action before the learned Civil Court where order of injunction has been passed injuncting the private respondents from raising construction. The Municipality is also a party in the sad proceeding.

Prayer has been made for dismissal of the writ petition.

None represents the Municipality.

The issue of unauthorised construction is required to be decided by the municipality which is the competent body to ascertain as to whether any unauthorised construction has been made or not.

As regards encroachment, it will be open for the civil court to proceed with the matter.

Till an inspection is conducted by the municipality to ascertain as to whether any unauthorised construction took place or not, further steps in response to the complaint lodged by the petitioner cannot be taken.

Accordingly, the municipality is directed to cause a spot inspection upon prior notice to the parties to ascertain the nature and extent of the unauthorised construction, if any.

The report of spot inspection shall be circulated amongst the parties and thereafter an opportunity of hearing granted to the parties. It will be open for all the parties to rely upon all documents in support of their respective stands at the time of hearing. If ultimately unauthorised construction is detected, then necessary consequential steps shall be taken.

It is abundantly made clear that the issue of encroachment shall not be adjudicated by the municipality.

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands 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.)**