

Item No.12 & 13

20.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 2863 of 2024
Manoj Mondal

v.

The State of West Bengal & Ors.
with

WPA 1148 of 2024
Tania Chakraborty

v.

The State of West Bengal & Ors.

Ms. Juin Dutta Chakraborty

Ms. Madhumita Paul

... for the petitioner in WPA 2863 of 2024
and for the private respondent
in WPA 1148 of 2024.

Mr. Kushal Chatterjee

Mr. Prasayan Mukherjee

Mr. Debrup Choudhury

...for the petitioner in WPA 1148 of 2024
& for the private respondent no. 7 in WPA 2863
of 2024.

Ms. Kakali Samajpaty

Ms. Kakali Naskar

... for the State in WPA 2863 of 2024.

Ms. Kakali Samajpaty

... for the State in 1148 of 2024.

Mr. Gobinda Chandra Bandyopadhyay

... for the Uluberia Municipality.

Manoj Mondal filed the writ petition challenging the stop work notice issued under Section 220 of the West Bengal Municipal Act, 1993 dated February 2, 2024 wherein it has been mentioned that the construction is being made without obtaining any sanction.

Learned advocate representing the Municipality submits, upon instruction that, the site was inspected and it was found that Manoj constructed a single dwelling unit without sanction. The same has been treated to be an unauthorized construction and, accordingly, stop work notice with the demolition order has been issued.

Tania Chakraborty filed the writ petition alleging illegal and unauthorized construction made by the aforesaid Manoj Mondal without any sanction plan. During the pendency of the writ petition filed by Tania, the Municipality issued a notice under Section 220 of the Municipal Act directing Tania to demolish construction made in deviation of the sanctioned plan.

The petitioners in both the writ petitions allege that prior to the issuance of the stop work-cum-demolition notice, opportunity of hearing was not granted to either of the parties. Both the parties have been directed to demolish the unauthorized construction.

According to the provisions of law, order of demolition is to be passed only after affording reasonable opportunity of hearing to the person responsible for making construction. Admittedly, in the instant case the Municipality did not issue any notice of hearing to either of the parties.

In view of the above, both the writ petitions are disposed of by directing the Municipality to cause a spot inspection upon prior notice to the parties and to circulate the spot inspection report to the respective parties. Thereafter, an opportunity of hearing shall be provided to the parties to produce documents in support

of the construction made. If it ultimately transpires that the construction has been made without any sanctioned plan or in deviation of the sanctioned plan, then necessary steps in accordance with law shall be taken to deal with such unauthorized construction.

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 impugned stop work-cum-demolition notice issued under Section 220 of the West Bengal Municipal Act dated February 2, 2024 issued in favour of Manoj Mondal and Tania Chakraborty are set aside.

The report filed by the Uluberia Municipality be retained with the records.

Both the writ petitions stand disposed of.

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.)