

Item No.25

07.05.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4164 of 2023
Anjan Mukherjee

v.

The State of West Bengal & Ors.

Mr. Bhudeb Chatterjee
... for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
... for HMC.

Mr. Subhrangsu Panda
Ms. Ina Bhattacharya
Mr. Sumitava Chakraborty
... for the respondent no. 9.

Mr. Sudipto Panda
Mr. Subrata Ghosh
... for the State.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
... for the Bally Municipality.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent at 48, Tarka Sidhanta Lane, Bally presently under the jurisdiction of Bally Municipality.

The allegation is that despite repeated complaints before the Bally Municipality, no steps have been taken to address the issue of unauthorized construction.

Learned advocate representing the private respondent submits, upon instruction that, an order of demolition was already passed by the Howrah Municipal Corporation on July 23, 2019 vide communicating letter no. 587/EE/ Bldg/19-20. The said order of demolition has been challenged by the aggrieved parties i.e. the private respondents in T.S. No. 630 of 2019 pending before the learned Civil Judge (Sr. Division), 1st Court at Howrah. The Suit has been filed against the Howrah Municipal Corporation and its Executive Engineer.

It has been submitted that an order of injunction has been passed in the said Suit.

Learned advocate representing the Bally Municipality submits that the Municipality is not aware of any order of demolition passed by the Howrah Municipal Corporation. Bally Municipality is also not aware of the Suit filed by the private respondents before the learned Civil Judge at Howrah.

Facts remains that presently the property in question falls within the jurisdiction of the Bally Municipality. The Bally Municipality is not a party in the said Suit. Any order passed in the said Suit will neither be binding on the Bally Municipality nor upon the complainant/writ petitioner.

The disputed construction is yet to be inspected.

To ascertain the exact nature and extent of unauthorized construction as alleged, the Bally Municipality is directed to cause a spot inspection upon prior notice to all the necessary parties and to serve the spot inspection report upon the parties. Thereafter, an opportunity of hearing shall be granted by the Municipality to all the parties who would be entitled to

rely upon all documents in respect of their respective stand.

A decision shall be taken by the Bally Municipality at the earliest but positively within a period of sixteen weeks from the date of communication of this order. If any unauthorized construction is detected then remedial steps shall be taken by the Municipality.

It is made clear that this Court is not entering into the facts in connection with the Title Suit and the present writ petition is related only to the allegation of unauthorized construction made at the behest of the private respondent. The trial Judge shall adjudicate the pending suit on merits without being influenced by any observation or direction passed hereinabove.

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.

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(Amrita Sinha, J.)