

16-05-2024
Item No.12
Court No. 24
AGM

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.9409 of 2024
Sri Sajit Krishnan Kutty & Ors.
-vs-
State of West Bengal & Ors.

Mr. Haradhan Banerjee, Sr. Adv.
Mr. Subhadip Biswas
Mr. Ayan Banerjee
Ms. Deboshree Dhamali
Ms. Kaberi Mukherjee. ...for the petitioners

Mr. Jayanta Samanta
Ms. Indumati Banerjee ...for the State

Mr. Amales Ray
Ms. Mousumi Bhowal
Mr. Ishan Bhattacharya ...for the municipality

Mr. Kallol Basu.
Mr. Soham Kumar Roy
Mr. Rahul Singh ...for the private respondents

South Dum Dum Municipality has passed an order of demolition of the unauthorised structure at 25, Dum Dum Road, Kolkata 700 074.

The petitioners are aggrieved by the same. It has been submitted that a deaf and dumb school by the name of North Point Day School with approximately 64 students is running from the said premises.

It has been submitted that it will be difficult to demolish the structure, as the school is required to be shut down.

The writ petition contains copy of the order dated 17th July, 2023 passed by the Hon'ble Supreme Court in **Civil Appeal No. 4500 of 2023** arising out of **SLP (C) No. 12373 of 2020** in the matter of **The Executive**

Officer, South Dum Dum Municipality -vs- Sajit Krishnan Kutty & Ors, wherein the Supreme Court directed the Municipality to consider the petitioners' fresh application for sanction on its own merit, uninfluenced by any observation made by the Supreme Court, provided the application is made in the prescribed form and conforms to all rules and regulations governing the municipality.

Learned advocate representing the petitioners submits that an application for sanction is already pending before the municipality for consideration. Prior to considering the said application, the structure in question ought not to be demolished.

Learned advocate representing the municipality submits that as per the direction passed by the Hon'ble Supreme Court, the application for sanction ought to have been made in the prescribed form. The same has not been made by the petitioners in the prescribed form. It has further been submitted that there is no scope for regularizing the construction that is standing at present. The construction that has been made is without a sanction plan and, accordingly, the same is liable to be demolished.

Upon hearing the parties and upon perusal of the documents before this Court, there is nothing on record to suggest that the construction in question was made in accordance with any sanction granted by the municipality.

The Court is, accordingly, not inclined to interfere with the impugned order of demolition. However, since it has been submitted that there is a school running with 64 special students, accordingly, the petitioners are granted time till 30th June, 2024 to demolish the subject structure.

As regards the consideration of the sanction plan, the Hon'ble Supreme Court directed the party to apply in the prescribed form.

It will be open for the petitioners to make application in the prescribed form and in conformity with all rules and regulations governing the municipality.

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]