

ML. 22
06.05.2024
Court No. 24
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 10013 of 2023

**Sukdev Halder
-versus
The Haldia Municipality & Ors.**

**Mr. Goutam Dinda.
Mr. Sandip Ray.
... for the Petitioner.**

**Mr. Sobhan Majumdar.
Ms. Kalpita Paul.
... for the private
respondent nos. 6 and 7.**

**Mr. S. M. Hassan.
Ms. Anupama Yasmin.
... for the Haldia Municipality.**

The petitioner prays for implementation of the order of dismantling passed by the Executive Officer of the Haldia Municipality on 30th November, 2022.

The construction has been made under the PMAY/House for All scheme.

The Executive Officer was of the opinion that portions of the building have been constructed unauthorisedly beyond the model plan. Direction has been passed for dismantling the unauthorisedly constructed portion.

Learned advocate representing the private respondents submits, upon instruction that, the details

of the unauthorised construction not being disclosed, it is not possible for the private respondents to identify the portions constructed beyond the sanctioned plan.

An objection has been raised with regard to the jurisdiction of the Executive Officer in passing the order of demolition.

Learned advocate representing the Haldia Municipality submits, upon instruction that, right now the Executive Officer is taking steps to deal with the unauthorised constructions as the Board is non functional.

From the documents annexed to the writ petition, it appears that the issue of unauthorised construction was the subject matter of challenge in an earlier writ petition filed by the petitioner being WPA 5671 of 2021, which stood disposed of on 23rd September, 2021. A further writ petition was filed by the petitioner being WPA 14107 of 2022 which stood disposed of vide order dated 27th September, 2022 by directing the Municipality to cause spot inspection and thereafter grant opportunity of hearing to all the parties.

The Municipality earlier found the construction to be in order and passed order on 17th February, 2022. But, thereafter, the Municipality detected unauthorised construction, however, the details of the unauthorised construction is not mentioned in the order of dismantling.

Accordingly, the Executive Officer of the Haldia Municipality is directed to intimate the parties the details of the construction which have been found to be unauthorisedly made beyond the model plan. The

persons responsible for making construction shall be obliged to dismantle the portions indicated by the Municipality.

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

The instruction forwarded by the Sub Assistant Engineer, Haldia Municipality be retained with the records.

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.)