

Item No.26

07.05.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12094 of 2023
Uttam Dey

v.
The State of West Bengal & Ors.

Mr. Subhrangsu Panda
Ms. Ina Bhattacharya
Mr. Sumitava Chakraborty
... for the petitioner.

Mr. Bhudeb Chatterjee
... for the respondent no. 6.

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

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 48A, Tarka Sidhanta Lane, Bally, Howrah.

On perusal of the complaint of the petitioner it appears that the allegation is of encroachment by the private respondent and making construction thereon.

The issue of encroachment cannot be decided by the Municipality and the same is required to be

adjudicated by the competent civil Court. The petitioner has already filed Title Suit before the learned Civil Judge (Jr. Division), 1st Court at Howrah being T.S. No. 153 of 2023. From the order sheet in respect of the aforesaid title suit it appears that the suit was fixed for ex parte argument and order on April 19, 2024. The Court has not been made aware as to whether any further order has been passed in the matter by the learned civil Court.

The petitioner also raises an issue of unauthorized construction.

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 the parties who would be entitled to rely upon all documents in respect of their respective stand.

A decision on the allegation of unauthorized construction 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.

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.)

