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11.06.2024
Ct. no. 551
sb

WPA 14100 of 2023

**Mr. Suresh Kumar Mohata & Ors.
-Vs-
The State of West Bengal & Ors.**

Mr. Amitabha Ghosh,
Ms. Arpita Dhar ...for the Petitioners

Mr. Siddhartha Banerjee ...for the Municipality

Mr. Shahjahan Hossain
Mr. Supriyo Das ...for the respondent no. 8

1. The writ petitioners, the respondent nos. 2 to 5
i.e. Uttarpara Kotrung Municipality and its
officials and the private respondent no. 8 are
represented by their respective advocates.
2. The affidavit of service as filed by the petitioners
is taken on record.
3. Despite service, none appears on behalf of the
private respondent no. 9.
4. In course of hearing, Mr. Banerjee, learned
advocate for the Municipality has filed letter no.
4/2665 dated 3.6.2024 as written by Dilip
Yadav, Chairman, Uttarpara Kotrung
Municipality addressed to 1) Sri Soumitra Bose &
Ors. 2) Sri Chandan Sharma 3) Sri Arunabha
Bhattacharjee 4) Sri Dilip Kanti Biswas & ors. 5)

Sri Suresh Mahato 6) Sri Sudipta Ghosh 7) Smt. Kakali Sengupta stating inter alia that the said Municipality has fixed 18.6.2024 for execution of the decision taken by the Board of Councilors on 29.5.2023 regarding unauthorized construction at holding no. 179, Shibhala Street and as per Section 218 of the West Bengal Municipal Act, 1993 and that such execution shall commence on the said date at 10.30 A.M.

5. At this stage, learned advocate for the petitioners again draws attention of this court to the page no. 208, 209 and 210 of the writ petition wherefrom it reveals that the board of councilors of the said Municipality had taken a decision in the meeting dated 29.5.2023 to demolish the unauthorized portion of the abovementioned holding within six weeks from the date of receipt of the said order and with the said order, this court finds the sketch map prepared by the said Municipality with regard to the unauthorised construction beyond sanction in the said holding.
6. At this stage, learned advocate for the private respondent no. 8 submits before this court that an opportunity may be given to his client to approach the appellate forum challenging the said decision of the board of councilors. It is further submitted on behalf of the learned

advocate for the private respondent no. 8 that from the private respondent no. 8, the said municipality is accepting occupiers' taxes and other charges in respect of the alleged unauthorized construction of the said holding.

7. It is settled principle of law that though a right to property is a Constitutional right but no such right accrues in favour of the respondent no. 8 especially when it is found by the board of councilors of the said municipality that the said construction is totally illegal.
8. In view of such, this court finds no cogent reason to tie up the hands of the municipality in the proposed execution of demolition.
9. In view of the discussions made hereinabove and while disposing the writ petition, this court directs the respondent nos. 2 to 5 to carry out the work of demolition on and from 18.6.2024 of the unauthorized construction at holding no.179, of Shibtala Street and to continue the same till the entire unauthorized construction is demolished to its fullest extent.
10. Liberty is given to the respondent no. 3 i.e. Chairman, Uttara Para Kotrung Municipality to seek police assistance from the Inspector-in-charge, Uttara Para Police Station under the Chandannagar Police Commissionerate well in

advance, in the event he apprehends any breach of peace and/or any resistance either from the private respondents or from any other interested and not interested person.

11. In the event, the police help is sought for by the respondent no. 3 i.e. Chairman, Uttarpara Kotrung Municipality both the Commissioner of Police, Chandannagar Police Commissionerate as well as I.C. Uttarpara P.S., District. Hooghly are hereby directed to provide adequate police personnel on the said day and hour and also on the subsequent days. It is also made clear that the entire cost of demolition of illegal construction and the cost of obtaining police help shall have to be recovered from the persons responsible for making such illegal construction afterwards by initiating appropriate certificate proceedings.
12. With the above observations, the instant writ petition is disposed of. The writ petitioners, respondent nos. 2 and 3, the respondent nos. 6 and 7, I.C. Uttarpara P.S. and the Commissioner of Police, Chandannagar Police Commissionerate are hereby directed to act on the server copy of this order.

13. Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Partha Sarathi Sen, J.)