

13.09.2024

Ct. No. 655

Sl No. 4

tbsr

WPA 15166 of 2023

Biplab Das

Vs.

Midnapur Municipality & Ors.

Mr. Jayanta Das

Mr. Soumitra Ghosh

.....for the petitioner

Mr. Sujay Bandyopadhyay

Mr. Jagajyoti Das

....for the Midnapur Municipality

Mr. Rabindranath Mahato

Mr. Aritra Shankar Ray

....for the private respondent

no.4

1. This writ petition is filed by the petitioner alleging that unauthorized construction has been made on the property in question. The said alleged construction was made at Keranitola Midnapore, Municipal Ward No. 5 over R.S. Plot No. 184/366, LR Plot Nos. 1064 and 1065 under Khatian Nos. 1142 and 1143, situated within the jurisdiction of the Midnapore Municipality. It is said by the petitioner that the developer, namely, Simpark Developer (respondent no. 4) has been constructing the said B+G+10 storied building over the said plot of land in a complete illegal manner by violating the

provisions as enumerated in the West Bengal Municipal Act, 1993 and the West Bengal Municipal (Building) Rules, 2007.

2. It is further stated by the petitioner that the said alleged construction has been made violating the Rules 49 and 50 of the West Bengal (Building) Rules, 2007.

3. Over the said alleged illegal construction of the building, the petitioner made a complaint before the Board of Councilors of the Midnapore Municipality on 10th February, 2023. Despite the said complaint filed by the petitioner, no step has yet been taken on behalf of the Municipality over the issue of the said alleged illegal construction.

4. At the time of hearing, learned counsel appearing on behalf of the Municipality candidly submits that he is not in a position to submit anything about the result of the said complaint as made by the petitioner before the Municipality.

5. Learned counsel for the Municipality said that it would be proper to make direction upon the Board of Councilors to consider the said complaint within the time framed manner.

6. It appears that there is a specific allegation made by the writ petitioner over the alleged illegal construction of the property in question and complaint was filed before the Board of Councilors of the concerned Municipality about one and half years back but till date no step has been taken on behalf of the Municipality for the best reasons known to him.

7. Accordingly, the Board of Councilors/respondent no. 2, Midnapore Municipality, is hereby directed to consider and dispose the representation made by the present petitioner in respect of the alleged illegal construction being made by the private respondents over the land in question

as per relevant provisions of the West Bengal Municipal Act and Rules within eight weeks from the date of communication of this order.

8. A spot inspection shall be conducted to ascertain the nature and extent of allegation as made by the petitioner. In the event the aforesaid respondent is of the considered opinion that construction is being carried on without any adherence to relevant Act and Rule then necessary step shall be taken to deal with such construction immediately.

9. The respondent no. 2 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the application filed by the petitioners.

10. The aforesaid respondent shall restrict the consideration of the representation of the petitioner with regard to construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

11. Needless to mention here that in the event of any unauthorized construction is detected in the site the concerned authority will take immediate steps for removal of such unauthorized construction in terms of provision contained in the West Bengal Municipal Act and Rules.

12. The petitioner is directed to forward a copy of the representation to the aforesaid respondent at the time of communicating the order of the Court.

13. All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the authority

14. The respondent no. 2 is also directed to pass a reasoned order and communicate the order passed by it over the representation made by the petitioner to the parties concerned immediately within seven days thereafter.

15. The writ petition is hereby disposed of.

(Prasenjit Biswas, J.)