

15.04.2024

**Sl. No. 08
Ct. No. 655
Srimanta**

WPA/15264/2023

Julfiqur Mondal

-Vs.-

Bidhannagar Municipal Corporation & Ors.

Mr. Mukteswar Maity,
Ms. Manika Sarkar

...for the petitioner.

Mr. Tirthankar Dey,
Mr. A. K. Nag

...for the Bidhannagar Municipal Corporation.

1. Affidavit-of-service filed in Court today by the petitioner be kept with the record.
2. This application is filed by the present petitioner with a prayer to take appropriate legal action in respect of alleged illegal construction made by the private respondents and to demolish the same by the authority concerned.
3. There is no representation on behalf of the private respondents.
4. Learned Counsel appearing on behalf of the Corporation is present.
5. It appears that the representation made by the petitioner in respect of illegal and unauthorized construction of the private respondents is pending consideration at the end of the authority concerned and no useful purpose will be served by keeping the writ petition pending.
6. It is stated by the petitioner that he got information that a development agreement was executed by and between the owners and developers in the year 2021 and a development power of

attorney was also executed and registered in the same year. It is further stated that immediate thereafter construction of the building on the alleged premises has been started without getting any appropriate sanction plan from the authority.

7. It is stated that the proposed building will be constructed as G+4 storied and no building plan has yet been sanctioned by the Bidhannager Municipal Corporation and without sanction plan the private respondents are carrying on such illegal or unauthorized construction in contravention of the relevant Acts and Rules.

8. On several occasions, the present petitioner talked with the private respondents with a request to stop such illegal construction and do the construction maintaining the statutory law but they did not pay any heed towards the request made by the present petitioner. As such, the petitioner made a written complaint before the Commissioner, Bidhannagar Municipal Corporation on 18.05.2023 as it appears from page no. 23 of the writ application. It is stated by the petitioner that the representation made by the petitioner before the authority has not yet been considered and no step has yet been taken by it. So, it is submitted by the learned Counsel appearing on behalf of the petitioner that appropriate direction may be passed upon the authority concerned to take necessary step upon the representation made by the present petitioner.

9. At the time of hearing, learned Counsel appearing on behalf of the Bidhannagar Municipal Corporation submits that although the representation has been received by the authority but they have every doubt whether the property in question is

situated within the jurisdiction of the Bidhannagar Municipal Corporation or not.

10. Accordingly, if it is found that the property in question is not situated within the jurisdiction of the Bidhannagar Municipal Corporation then it should be sent to the appropriate authority under whose jurisdiction the present property in question is situated for consideration of the representation made by the present petitioner and intimate him forthwith.

11. The appropriate authority shall conduct a spot inspection to ascertain the nature and extent of alleged unauthorized construction. Thereafter, the authority concerned shall dispose of the representation made by the petitioner strictly in accordance with law after giving an opportunity of hearing to all the necessary parties including the petitioner within four weeks from the date of communication of this order.

12. The said authority shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

13. In the event the authority concerned is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction in accordance with law.

14. The authority concerned shall restrict the consideration of the representation with regard to unauthorized 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.

15. This court has not entered into merits of the claim made by the petitioner and all points are left open to be decided by the respective authority at the time of consideration of the representation of the petitioner.

16. Petitioner is directed to communicate this order to the Bidhannagar Municipal Corporation along with the copy of the representation made by the petitioner dated 18.05.2023.

17. Liberty is hereby given to the parties to submit their relevant documents at the time of hearing before the authority.

18. Accordingly, WPA/15264/2023 is hereby disposed of.

19. Urgent Photostat copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Prasenjit Biswas, J.)