

S/L 5
26.09.2024
Court. No. 551
Sourav

WPA 16787 of 2024

**Busra Begum @ Busra Begum Akhtar
Vs.
Midnapore Municipality & Ors.**

*Mr. Mahboob Ahmed
Mr. Md. Apzal Ansari*

...for the petitioner.

*Mr. Sujay Bandyopadhyay
Mr. Jagajyoti Das*

...for the respondent nos. 1 to 4.

*Mr. Amit Ranjan Pati
Ms. Swartika Chowdhury*

...for the private respondent no. 6.

1. Affidavit-of-service as filed in Court today is taken on record.
2. By filing the instant writ petition, the writ petitioner complains regarding total inaction on the part of the respondent nos. 1 to 4 though the writ petitioner has lodged a written complaint alleging illegal construction on Plot No. 581 at Mirza Mahalla under Ward No. 21 of the Midnapore Municipality.
3. *Per contra*, learned advocate for the respondent nos. 1 to 4/Midnapore Municipality and its officials contended that the instant writ petition is not maintainable in its present form since from the prayer portion of the instant writ petition, it would reveal that practically a prayer has been made for decree for declaration and for permanent injunction.
4. Learned advocate for the private respondent no. 6 submits before this Court that the alleged dispute is a dispute between two neighbours who are also the family

members and, therefore, the writ petitioner ought to have approached in the Common Law Forum instead of approaching this writ Court.

5. On perusal of the entire materials and after considering the rival submissions of the learned advocates for the contending parties, it reveals that pursuant to the representation dated 24.05.2023 as available at Page No. 23 of the writ petition, the Executive Officer of the Midnapore Municipality issued a stop work notice dated 13.06.2023 upon the respondent no. 6. From the said notice, it is, however, not explicit as to whether the said Executive Officer has come to a specific finding as to the correctness of the allegation of erection of unauthorized construction at the behest of the private respondent no. 6.
6. In view of such, while disposing the instant writ petition, this Court directs the Executive Officer of Midnapore Municipality to consider the representation dated 24.05.2023 in accordance with law after giving due opportunity of hearing both to the writ petitioner as well as to the private respondent no. 6 and also by prior inspection and, thereafter, the said Executive Officer shall pass a reasoned order and shall communicate the same both to the writ petitioner as well as the private respondent no. 6.
7. The entire process i.e., inspection of the subject premises in presence of the writ petitioner and the respondent no. 6, service of notice upon the writ petitioner and the private respondent no. 6, hearing of

the writ petitioner as well as the private respondent no. 6 and passing of the reasoned order and communication thereof shall have to be completed positively by the last day of December, 2024.

8. With the aforementioned observations, the instant writ petition being **WPA 16787 of 2024** is disposed of.
9. Learned advocate for the respondent nos. 1 to 4/Midnapore Municipality and its officials is hereby requested to communicate this order to the Executive Officer, Midnapore Municipality forthwith.
10. The Executive Officer of Midnapore Municipality is hereby directed to act on the server copy of this order.
11. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)