

S/L 15
07.10.2024
Court. No. 551
Sourav

WPA 17266 of 2024

**Pijush Mukherjee
Vs.
The State of West Bengal & Ors.**

*Mr. Kaustav Banerjee
Ms. Ria Kundu*

...for the petitioner.

Mr. Sweta Mukherjee

...for the State.

Mr. Pronojit Roy

...for the respondent nos. 3 to 7.

*Ms. Mousumi Bhowal
Mr. Aman Gupta
Mr. Ishan Bhattacharya*

...for the Dum Dum Municipality.

1. The affidavit-of-service as filed in Court today is taken on record.
2. By filing the instant writ petition, the writ petitioner alleges inaction and/or non-action on the part of the respondent nos. 2 to 5 i.e. Dum Dum Municipality and its officials in respect of his grievance as agitated under cover of his advocate's letter dated 19.04.2024 wherein it has been specifically stated that the respondent nos. 6 to 10 are constructing building at Mouza – Sultanpur, J.L. No. 10, R.S. No. 148, Touzi No. 172, Police Station – Dum Dum, comprised in Dag No. 2944 under Khatian No. 79 and modified Khatian No. 59 and New Khatian No. 3062 (modified) in total land measuring 34 Cottahs 2 Chittacks 25 Sq.ft. more or less under Dum Dum Municipality being Holding No. 91, 1 Talgacha

Road, Ward No. 06, North 24 Parganas, Kolkata – 700079 without leaving statutory side spaces.

3. Per contra, learned advocate for the private respondents submits before this Court that in between the writ petitioner and the private respondent a civil suit is pending which is explicit from the pleadings of the instant writ petition. Learned advocate for the private respondents in course of his hearing has handed over a server copy of order dated 29.09.2023 as passed by a Division Bench of this Court in FMAT 371 of 2023. It is submitted on behalf of the private respondents that the instant writ petition is misconceived one and may be rejected.
4. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court proposes to dispose of the instant writ petition in the manner indicated hereinbelow.
5. The respondent no. 5 i.e., the Executive Engineer, Dum Dum Municipality is directed to cause an inspection at Mouza – Sultanpur, J.L. No. 10, R.S. No. 148, Touzi No. 172, Police Station – Dum Dum, comprised in Dag No. 2944 under Khatian No. 79 and modified Khatian No. 59 and New Khatian No. 3062 (modified) in total land measuring 34 Cottahs 2 Chittacks 25 Sq.ft. more or less under Dum Dum Municipality being Holding No. 91, 1 Talgacha Road, Ward No. 06, North 24 Parganas, Kolkata – 700079 and to prepare an inspection report as to whether the statutory side space has been

maintained by the private respondents or not while making the construction and at the same time, he must indicate in such report whether such construction is being made in violation of the sanctioned plan or not.

6. In the event, any illegality and/or irregularity is noticed by the Executive Engineer, Dum Dum Municipality, the said report shall have to be considered in accordance with law by the Board of Councillors of Dum Dum Municipality after serving notice both upon the writ petitioner as well as the private respondents and the Board of Councillors of Dum Dum Municipality shall thereafter pass a reasoned order and shall communicate the same both to the writ petitioner and to the private respondents either by Speed Post or by Email if the Email details are provided at the time of hearing.
7. It is further directed that after completion of inspection, the Executive Engineer, Dum Dum Municipality shall provide a copy of such inspection report to the writ petitioner as well as to the private respondents which shall be sent to them under Speed Post.
8. The entire exercise as indicated above is to be completed by the respondent no. 4 i.e., the Board of Councillors of Dum Dum Municipality by the last day of December, 2024.
9. It is made clear that that the time limit as prescribed by this Court is mandatory and peremptory.
10. With the aforementioned observations, this writ petition being **WPA 17266 of 2024** is disposed of.

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.)