

22 and 23
10.01.2024
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 25171 of 2023

**Munna Prasad
-versus
The State of West Bengal & Ors.**

With

W.P.A. 28296 of 2023

**Sambhunath Prasad
-Versus-
The State of West Bengal & Ors.**

**Mr. Uttiya Roy.
Mr. Arnab Mondal.**

**...For the Petitioner in
W.P.A 25171 of 2023 and
for the respondent in W.P.A
28296 of 2023.**

**Mr. Prabir Rej.
Mr. Sujay Bandhopadhyay.
Mr. Jagajyoti Das.
Mr. Pradipta Siddhanta.**

**... For the Petitioner in W.P.A
28296 of 2023 and for the
respondent in W.P.A 25171 of 2023.**

**Mr. Subhasis Bandopadhyay.
...For the Municipality.**

**Ms. Mousumi Chowdhury.
Mr. Partha Sarathi Sen Sharma.
...For the State.**

Two writ petitions have been filed by two brothers alleging illegal and unauthorized construction made by the other.

The Chairman of the Municipality has forwarded a report to this Court signed on 9th January, 2024. It appears therefrom that a demolition order was passed in

respect of the construction made at holding No. 143, G.T. Road East Mohalla against both the brothers.

Sambhunath Prasad made a prayer for reconsideration of the order of demolition which was rejected by the Board of Councillors in its meeting dated 30th July, 2016.

Title Suit no. 27 of 2015 was filed by Sambhunath Prasad against Munna Prasad which is pending adjudication.

The Chairman of the Municipality has opined that due to multiplicity of the suits, no action has been taken.

The Municipality is the competent authority to adjudicate the issue of unauthorized construction.

Upon hearing the parties and upon perusal of the materials on record placed before this Court it appears that for adjudicating the issue of unauthorized construction, a spot inspection is required to be conducted by the Municipality in presence of both the petitioners. Let notice of spot inspection be served upon both the parties. The report of spot inspection shall be circulated amongst the parties. An opportunity of hearing shall be provided to the parties to make submission in support of their respective stand. It will be open for the parties to rely upon documents in support of their respective stand.

After hearing all the parties, the Municipality shall take steps in the matter to ascertain as to whether any unauthorized construction has been made or not. If any unauthorized construction is detected, necessary consequential steps shall be taken.

The Municipality shall endeavour to conclude the proceeding at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petitions stand disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)