

23
15.01.2024
s.h.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A.25260 of 2023
Prasanta Kr. Maity
-versus
The State of West Bengal & Ors.

Ms. Santi Das
... for the petitioner.

Mr. K. Chatterjee
Mr. Nilanjan Adhikari
... for Contai Municipality.

Mr. Nabhajit Prasad Basu
Mr. Chandan Kumar Mondal
... for the State.

Mr. Amit Baran Dash
Ms. Ankana Sarkar
... for the respondent nos. 8 & 9.

The order passed under Section 218 of the West Bengal Municipal Act, 1993 on August 1, 2023 is impugned in the instant writ petition.

It has been submitted that the Board of Councillors only took note of the additional floor constructed unauthorizedly but the Board failed to take into consideration the side deviations made by the private respondent Madhumita Shit.

It has also been pointed out that the impugned order clearly mentions about the unauthorized construction made by the private respondent Tapas Shit but despite noticing the unauthorized construction, the Municipality failed to take any action against the same.

The report of the engineers of the Municipality annexed to the writ petition clearly indicates that the additional construction made by Tapas is illegal. Apart

from constructing additional floor without sanction there is side deviation.

Learned advocate representing the private respondents submits, upon instruction that, the order passed by the Board of Councillors has been carried in appeal before the appellate forum and the appeal is pending.

It has, however, been admitted that no order of stay has been passed by the learned Court below.

Learned advocate representing the Municipality submits that steps will be taken against the unauthorized construction made by Tapas.

The Municipality ought to have taken proper steps against any unauthorized construction that has been detected and ought not to have compelled a party to file writ petition seeking relief. The stand of the Municipality in observing that as no order has been passed by the Court, the unauthorized construction will not be dealt with, cannot be accepted by the Court.

The Municipality is the primary authority to look into the issue of unauthorized construction and take steps to deal with any unauthorized construction as soon as the same is detected.

As regards the construction made by Madhdumita, as the appeal is pending consideration, it will be open for the petitioner to raise all issues before the appellate forum.

As regards the construction made by Tapas, the Municipality is directed to take steps against such unauthorized construction in accordance with law at the earliest but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed.

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

(Amrita Sinha, J.)