

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M.A.T. 2353 of 2023
(CAN 2 of 2023)***

***Biswanath Ghosh & Anr.
-Vs-
Smt. Saraswati Pal & Ors.***

For the Appellants	:	Mr. Biswaroop Bhattacharya, Adv. Mr. Pratik Majumder, Adv. Mr. Santanu Talukdar, Adv.
For the Respondents/ Writ petitioner	:	Mr. Tulshidas Ray, Adv. Mr. Tirthankar Roy, Adv.
For the Respondent No. 5	:	Mr. Krishnendu Bhattacharya, Adv. Mr. Priyankar Ganguly, Adv. Mrs. Shalini Bairagi, Adv. Ms. Neelanjana Ghorui, Adv.
For the Respondent No. 14	:	Mr. Abul Mullick, Adv.
For Nadia Zilla Parishad	:	Mr. Amitava Chaudhuri, Adv. Mr. N. Roy, Adv.
For the State	:	Mrs. Jhuma Chakraborty, Sr. Govt. Adv. Mr. Suddhadeb Adak, Adv.
Heard on	:	10.06.2024 & 25.06.2024
Judgment on	:	25.06.2024

JoymalyaBagchi, J. :-

1. Learned Advocate for Nadia Zilla Parishad submits report of Dr. Partha Ghosh, Professor, Faculty of Engineering & Technology, Dept. of Construction Engineering, Jadavpur University. The same be kept with the record. Let a copy of the report be circulated amongst the appearing parties.
2. By order dated 28.06.2021 an Hon'ble Single Judge had directed the respondent-Nadia Zilla Parishad to consider the representation of the respondents/writ petitioners with regard to demolition of unauthorised construction and in the event the Zilla Parishad found the construction was in deviation of sanctioned plan, to take necessary steps with regard to the said unauthorised construction.
3. Pursuant to the said order, inspection was done by the Engineers attached to Nadia Zilla Parishad and it was noted that an additional area of 559.67 sq. mtrs. had been unauthorisedly constructed. Alleging that the Zilla Parishad did not take steps to demolish the additional area unauthorisedly constructed, respondents/writ petitioners initiated contempt proceeding being CPAN 1156 of 2022. Various orders were passed in the contempt proceeding. One of such order dated 16.11.2023 wherein the Hon'ble Single Judge directed the area in excess of sanctioned portion be identified and thereafter demolished is the subject matter of challenge.

4. It may not be out of place to note while passing the impugned order the Hon'ble Single Judge had taken note of another order dated 11.05.2023 passed by a Coordinate Bench in WPA 11403 of 2023 wherein it was directed that the demolition process should not deteriorate the structural stability of the building or neighbouring houses.

5. During hearing of the appeal, various reports have been filed with regard to the extent of unauthorised area already demolished and expert opinion with regard to impact on structural stability of the building concerned in case of demolition.

6. Mr. Biswaroop Bhattacharya submits his clients are ready and willing to implement the order passed by the Hon'ble Single Judge without affecting the stability of the building concerned.

7. We have perused the order impugned. By the said order the Hon'ble Single Judge had issued various directions with regard to steps to be taken by the Zilla Parishad for demolition of the area in excess to the sanctioned plan. These directions were necessary to execute the order and cannot be said to be beyond the jurisdiction of contempt proceeding.

8. Accordingly, we find no reason to interfere with the order impugned.

9. We however, direct the reports placed before us in the appeal be placed before the Hon'ble Single Judge for passing appropriate directions for demolition of the additional area unauthorisedly constructed.

Appellants are at liberty to intervene and assist the court in demolition of the area unauthorisedly constructed.

10. Appellants are also directed to pay the charges of Dr. Partha Ghosh, Professor, Faculty of Engineering & Technology, Dept. of Construction Engineering, Jadavpur University who was requested by this court to give a report with regard to demolition of the unauthorised construction. Nadia Zilla Parishad shall hand over the bill raised by the expert upon the appellants and the amount shall be cleared by the appellants within seven days from the date the bill is handed over to them.

11. With the aforesaid directions, the appeal is disposed of.

12. In view of disposal of the appeal, connected application being CAN 2 of 2023 is also disposed of.

13. There shall be no order as to costs.

14. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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