

14.06.2024
Sl. No.11
Suman
Ct.No.15

WPA 28665 of 2023

Anjali Karmakar @ Anjali Rani Karmakar
Vs.
The State of West Bengal and Ors.

Mr. Uttiya Ray
Mr. Arnab Mandal
..for the petitioner

Mr. Subhasis Bandopadhyay
..for the Municipality

Let the affidavit of service filed by the petitioner
be kept with the records.

Respondent nos. 4 and 5 are not present even in
the second call.

The petitioner alleges that respondent nos. 4 and
5 have made some unauthorised construction
encroaching upon a common passage running between
the petitioner's premises and the premises owned by
respondent nos. 4 and 5.

In the earlier round of litigation (W.P.A.
No.11622 of 2021) (*Anjali Karmakar @ Anjali Rani
Karmakar Vs. The State of West Bengal*) filed by the
petitioner for demolition of such unauthorised
construction, a Co-ordinate Bench of this Court
passed the following order dated May 19, 2022.

“As the municipal authorities have taken cognizance of the complaint of the petitioner and has already issued a ‘stop work’ notice, no useful purpose will be served by keeping the writ petition pending. Accordingly, the writ petition is disposed of with a direction upon the competent authority of the Burdwan Municipality to act and proceed in accordance with law and reach the proceedings already initiated to its logical conclusion. While doing so the following procedure shall be adopted:

- a) Inspection of the construction shall be conducted in the presence of the petitioner, the respondent nos. 4 and 5 and other interested parties with 48 hours advance notice to the parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.*
- b) During inspection, if any further construction is detected in violation of the rules, then the corporation can take interim measures.*
- c) Reports shall be prepared and handed over to the petitioner and the respondent nos. 4 and 5.*
- d) Thereafter, a hearing shall be given to the petitioner, the respondent nos. 4 and 5 and all other interested parties. The parties must also be allowed to furnish their written objection/version to the said reports and adduce oral and documentary evidence in support of their contentions, before the competent authority.*
- e) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute with regard to the constructions.*

The entire exercise shall be completed within a period of four months from the date of communication of this order.”

After the said order was passed by this Court,
the Chairman of Burdwan Municipality by an order

dated June 28, 2023 directed respondent nos. 4 and 5 to remove the unauthorised construction within ten days. The Chairman further ordered that in the event of failure on the part of respondent nos. 4 and 5 to remove the unauthorised construction, the same should be demolished by Burdwan Municipality at their costs.

The petitioner by filing this writ petition alleges that till date the order dated June 28, 2023, passed by the Chairman has not been given effect to.

The Municipality submits that respondent nos. 4 and 5 approached the Municipality for granting them some time for self-demolition but till date the demolition work has not been carried out. The Municipality, in view of the aforesaid facts, seeks further time for demolition of the impugned unauthorised construction.

In that view of the matter, the writ petition is disposed of with a direction upon Burdwan Municipality to implement the order of demolition dated June 28, 2023, within a period of one month from the date of communication of this order.

Accordingly, **WPA 28665 of 2023** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)