

Item no.
12
02.05.2024
Saswata

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA 821 of 2024

**Dolly Biswas
versus
State of West Bengal & Ors.**

Mr. Kalipada Das	...For the petitioner
Mr. Nabankur Paul	
Mr. Pradip Sarkar	...For the respondent nos. 1 and 7
Mr. Nripen Das	
Mr. Debanjan Das	...For the respondent no. 3
Mr. Deborshi Dhar	...For the Siliguri Municipal Corporation

1. The present writ petition has been filed, inter alia, praying for a direction upon the Municipal Commissioner to take steps for demolition of illegal construction forming subject matter of the present writ petition.
2. The petitioner claims to be the owner in respect of 0.99 acres of land purchased vide sale deed dated 24th April 1988. The petitioner also claims to be an aged woman suffering from various ailments. It is the petitioner's case that on or about 3rd July 2023, she came to learn that a new two storied building construction in the eastern corner of the aforesaid plot situated at Prakash Nagar, Limbu Busty, Ward no. 42, Salugara, Jalpaiguri, had come up.
3. According to the petitioner the aforesaid construction has taken place without any sanction from the Municipal Authorities. Although, repeated notices have been issued

calling upon the Municipal Authorities to take steps in this matter, there has been no fruitful outcome thereto.

4. Mr. Das learned advocate appearing for the respondent no. 3 submits that the present writ petition has been filed by way of suppression of materials facts. According to him the petitioner has already filed a suit being TS no. 448 of 2023 praying for a decree of eviction of the defendant no. 3 as also for injunction. By an order dated 11th July 2023, the learned Civil Judge (Junior Division), Jalpaiguri has, inter alia, directed the parties to maintain status quo in respect of the nature, character and possession of the suit property.
5. According to Mr. Das, the subject matter in the suit and the writ petition are same. He submits that on the ground of suppression the writ petition is liable to be dismissed with costs. He however, could not disclose any sanctioned building plan to support that the aforesaid two storied building forming subject matter of the writ petition had been constructed with the sanction of the Municipal Authorities.
6. Mr. Dhar, learned advocate appearing for the Siliguri Municipal Corporation on the other hand submits that on the basis of the complaint lodged by the petitioner, steps have been taken by the Municipal Commissioner by issuing a show cause notice under Section 287 of the West Bengal Municipal Corporation Act, 2006¹. He submits that both the petitioner as also the private respondent have been served with the aforesaid notice.

¹ Hereinafter referred to as the “said Act”

7. Mr. Das, learned advocate appearing for the petitioner, however, denies to have received any such.
8. Heard the learned advocates appearing for the respective parties and considered the materials on record.
9. Although, the petitioner has suppressed the factum of filing of the suit being TS no. 448 of 2021, however, taking note of the fact that the Municipal Commissioner has already proceeded on the basis of the compliant made by the petitioner, I direct the Municipal Commissioner to conclude the proceedings and take the same to a logical conclusion.
10. I made it clear that if no proceeding under Section 287 of the said Act has been initiated by the Municipal Authorities, the Municipal Commissioner shall initiate the proceedings under Section 287 of the said Act and shall decide the same in accordance with law upon giving due opportunity of hearing to the intending parties within a period of 16 weeks from the date of communication of this order.
11. With the above direction and observation, the writ petition being WPA 821 of 2024 is disposed of.
12. Urgent Photostat certified copy of this order, if applied for be given to the parties on priority basis upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)