

18.06.2024
Sl. No.80(DL)
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 947 of 2024

Lipi Biswas

Versus

Siliguri Municipal Corporation & Ors.

Mr. Kumar Shantanu,
Mr. Nabankur Paul,
Ms. Sutapa Sen Paul

...for the Petitioner.

Mr. Deborshi Dhar

...for the Siliguri Municipal Corporation.

Mr. Raja Saha

... for SJDA.

1. The petitioner is aggrieved by the initiation of a demolition proceeding by the Siliguri Municipal Corporation, upon detection of certain deviations.
2. It is contended by Mr. Paul, learned advocate for the petitioner that the corporation asked the petitioner to provide a revised plan. It is contended that the delay in supply of the revised plan occurred as the land used and compatibility certificate had not been awarded by the Siliguri Jalpaiguri Development Authority (in short SJDA). The said certificate has been approved by the

authority and the revised plan would be prepared shortly.

3. It is contended that some demolition has been effected. Mr. Dhar submits that there are other deviations which could not be permitted even if the revised plan is supplied. It is submitted that the revised plan could not be used to justify the deviations which have already taken place. There cannot be *post facto* sanction.
4. Under such circumstances, nothing remains to be decided in the writ petition. The matter is sent back to the Commissioner, Siliguri Municipal Corporation with a direction to stay the demolition process and with a further direction to hear the petitioner and pass a reasoned order upon causing further inspection and enunciating the deviations with accurate measurement and also upon considering whether the revised plan could be accepted or not.
5. If the Commissioner finds that acceptance of revised plan would not be according to law, necessary orders shall be passed and communicated to the petitioner. A demolition sketch map shall be provided to the petitioner if it is found ultimately that the deviations could not be permitted as per law.

6. The entire exercise shall be completed within a period of eight weeks from the date of supply of the revised plan by the petitioner.
7. This Court has not gone into the merits of the claim of the petitioner.
8. The writ petition is, thus, disposed of.
9. There shall be no order as to costs.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)