

11.06.2024
Ct. No. 02
Sl. No.15
Cp

Calcutta High Court
In the Circuit Bench at Jalpaiguri

WPA No. 1055 of 2024

Smt. Sampa Ghosh & anr.
Vs.
The State of West Bengal & ors.

Mr. Kunaljit Bhattacharjee
Mr. Alok Sah

.....for the petitioners.

Mr. Subir Kumar Saha
Ms. Bedashruti Bose

....for the State.

Ms. S. Sarkar

.....for the respondent no. 4.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the
municipal authorities.

This court does not deem it necessary to keep
the matter pending as no mandatory directions are
being passed as prayed for by the petitioner. Rather,
the matter is relegated to the competent authorities of
the Maynaguri Municipality for proper action in
accordance with law, upon notice to all parties
concerned, including the respondent no. 4.

The petitioners complain of an unauthorized
construction by the respondent no. 4 to the effect that

a part of the construction falls on a pathway which was contrary to building rules.

The municipality will decide the issue. While doing so, the following procedure shall be adopted:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no. 4. An advance notice of the inspection shall be served upon the petitioner and the respondent no. 4 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the parties.
- d) A hearing shall be given to the petitioner and the respondent no. 4. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- 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. Steps for demolition will be taken if it is found that the construction of the respondent no. 4 or any portion thereof is either illegal or contrary to the building rules. The court has not gone into the merits of the claims.

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

The question of title, possession and boundary dispute over the land etc., shall not be decided by the authorities. The only question to be decided by the authorities, would be whether the construction had been made without any permission and/or in violation of the building rules and the relevant laws, which resulted in extension of the construction over the pathway or not.

A copy of the writ petition along with a server copy of this order be served upon the concerned municipality for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)