

14.06.2024
Ct. No. 02
Items No. 10
Cp

Calcutta High Court
In the Circuit Bench at Jalpaiguri

WPA No. 1260 of 2024

Bhagirath Agarwal
Vs.
The State of West Bengal & ors.

Mr. Bikramaditya Ghosh
Ms. Supriya Singh
.....for the petitioner.
Mr. Subir Kumar Saha
Mr. Bikash Singha
....for the State.
Mr. Deborshi Dhar
.....for the Siliguri Municipal Corporation.

The writ petition was filed with a prayer for urgent listing on the ground that rampant constructions were being carried out by some shop owners right in front of the property of the petitioner and by blocking the frontage. Mr. Ghosh, learned advocate for the petitioner, relies on certain photographs to show the extensive nature of the construction.

It appears to the court that iron frames have been installed in the area.

The learned advocate appearing for the Siliguri Municipal Corporation, submits upon instructions that the area over which the construction is being carried out belongs to the PWD and is maintained by the PWD. According to the

corporation such installation of stalls/shops were permitted by the PWD and the corporation did not authorize such stalls. The corporation did not have any authority to interfere with such construction.

The State respondents are represented, but in view of the urgent listing instructions have not yet arrived.

It appears from the records that the petitioner had already approached the Chief Engineer (Roads), PWD, Champasari, Mallaguri with certain objections regarding the drain that had been construction. It is now submitted that the shop owners are installing the shops by the side of the drain and allegedly encroaching a portion of Sevoke Road.

In view of the submissions made by the petitioner and the contentions of the corporation, disputed questions of fact have arisen. Whether the shop owners were permitted by the PWD to make such installations and whether such installations are valid, legal and permissible under the provisions of law will be decided by the appropriate authority.

Under such circumstances, the writ petition is disposed of with a direction upon the respondent nos. 3 and 4 as also the concerned Block Land & Land Reforms Officer to cause an inspection of the site in which such construction is going on, in the presence of the petitioner, the persons responsible for such

constructions as also the officials of the Siliguri Municipal Corporation.

A report shall be prepared which will indicate the extent of the constructions and the measurement of the area on which such construction has been made. The grievance of the petitioner will be considered. A hearing shall be given to all concerned, including the persons at whose behest the constructions are being made. A reasoned order shall be passed and communicated to all.

The scope of the inspection will be restricted to ascertaining whether the construction was on PWD land or on the road maintained by the PWD and if the same is answered in the positive, whether such construction was permitted by the PWD.

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

Needless to mention, if the authorities find that there are unauthorized constructions on PWD land, steps shall be taken, in accordance with law.

The writ petition is accordingly 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.)