

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

43
05.09.2024

WPA 1853 OF 2024

kc Ct. no.2

Smt. Kanta Devi Agarwala @
Kanta Devi Agarwal Singhi

Vs.

Jalpaiguri Municipality and Others

Mr. Kunaljit Bhattacharjee, Adv.
Mr. Alok Sah , Adv.
 For the petitioner

Mr. Ajoy Kumar Singhania, Adv.
Mr. Deborshi Dhar, Adv.
Ms. Madhurima Roy, Adv.
 for the respondent
 No.6

Mr. Preetom Das, Adv.
 for the Jalpaiguri
 Municipality

Mr. Hirak Barman, Adv.
Mr. Bikash Singha, Adv.
 for the State

Affidavit-of-service filed in Court today is taken on
record.

Mr. Kunaljit Bhattacharjee, learned counsel,
appears for the petitioner.

Mr. Ajoy Kumar Singhania, learned counsel, appears
for private respondent no.6.

Mr. Preetom Das, learned counsel, appears for the
respondent nos. 1 to 3.

Mr. Hirak Barman, learned counsel, appears for the respondent nos. 4 and 5.

The petitioner complains of an alleged unauthorised and illegal construction at the subject premises at the behest of the private respondent no.6. The petitioner has submitted a representation dated **17th May, 2024**, **annexure P-3**, at **page 23** to the writ petition. The same has not yet been disposed of.

Learned counsel for the private respondent no.6 denies and disputes the submissions made on behalf of the petitioner. He further submits that whatever construction has been done, has been in accordance with the sanctioned plan.

After considering the rival contentions of the parties and upon perusal of the materials-on-record, to subserve justice, the respondent no.2, upon issuing a prior notice of at least seven days to the petitioner and the private respondent no.6, shall cause a physical inspection of the alleged unauthorised and illegal construction and then after granting an opportunity of hearing to them shall decide the said representation dated **May 17, 2024**, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise, as directed herein, shall be carried out and completed by the respondent no.2 positively within a period of **six weeks** from the date of communication of this order. The reasoned order then

shall be communicated to the petitioner and the private respondent no.6 positively within a further period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties as recorded above. The petitioner and the private respondent no.6 shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents and records they wish to rely upon before the respondent no.2.

In the event, the reasoned order confirms the unauthorised and illegal construction, the respondent no.2 and/or the appropriate jurisdictional authority of the concerned municipality shall take all necessary and consequential steps to give an immediate effect to the said reasoned order strictly in accordance with law but positively within a period of **four weeks** from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or equity either in favour of the petitioner or in favour of the private respondent no.6 if they do not succeed to their respective claims before the respondent no.2 strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition **WPA 1853 of 2024** stands disposed of, without any order as to costs.

(Aniruddha Roy, J.)