

07.03.2025
Suppl. List. 01
Ct. No. 15
AN

WPA 5547 of 2025
Sudhan Kumar Das
vs.
The State of West Bengal & ors.

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
... for the petitioner

Mr. Usof Ali Dewan
Mr. Asif Dewan
... for respondent no. 3

Respondent No. 6 filed WPA 27602 of 2022 against the petitioner, alleging unauthorized construction at Plot No. 841 (LR), Mouza Raghunathgunj, J.L. No. 06, Ward No. 70 (J.M.), P.S. Raghunathgunj, District – Murshidabad.

The writ petition was disposed of by an order dated March 14, 2023, by a coordinate bench of this Court, with the following directions:

“The writ petition is accordingly disposed of by directing the respondent no. 4 being the Jangipur Municipality represented by the Board of Councilors, Jangipur Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 16th November, 2022 to the aforesaid respondent at the time of communicating the order of the Court.”

Learned counsel for the petitioner submits that in compliance with the aforementioned order, the Municipality, by letter dated March 4, 2025, directed the petitioner to appear before the Municipality, along with all relevant documents, for discussion. Consequently, the petitioner appeared before the Municipality and requested an adjournment.

However, on the same date, the Municipality issued a demolition order dated March 6, 2025, which reads as follows:

“Today is fixed for hearing. Both parties are present. Heard both the parties. After hearing it has been decided that the illegal portion will have to be demolished by Sri Sudhan Kumar Das in respect of Construction made in Plot No.-841 of Mouza-Raghunathganj as per direction of Honorable High Court, Calcutta in WPA – 27602/2022 within 10/03/2025. Be it mentioned here that ULB had Served notices 4th times to Sri Sudhan Kumar Das prior to this hearing, but he did not complied with the same. So direction is made to him for compliance within the period i.e. 10/03/2025 otherwise ULB will demolish. Serve the copy of order upon both the parties.”

A perusal of the order dated March 6, 2025, makes it evident that although the petitioner was heard, the order does not specify the extent of the unauthorised construction that the petitioner is required to demolish.

Learned counsel for the petitioner submits that, although the petitioner could not produce the necessary documents before the Municipality on March 6, 2025, for the sake of justice, the petitioner should be granted another opportunity to submit the required documents in support of his case.

In the interest of justice, I grant the petitioner an additional fourteen days time from date to produce any relevant documents in his possession before the Municipality. The Municipality is directed to consider any documents produced by the petitioner within this period.

Thereafter, Municipality shall provide the petitioner an opportunity of hearing and pass a fresh reasoned order and communicate the same to the petitioner.

Learned counsel for the Municipality, however, submits that the petitioner has a history of non-compliance and delay in appearing before the Municipality, and therefore a peremptory date should be specified to ensure the petitioner's appearance.

Accordingly, this Court directs the petitioner to appear before the Municipality on March 25, 2025, at 12:00 Noon. It is made clear that no further adjournments will be granted. Should the petitioner fail to appear on the specified date, the Municipality will be at liberty to proceed with the matter and pass an ex parte order.

The order dated March 6, 2025, is hereby set aside.

Accordingly, WPA 5547 of 2025 is **disposed of**.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Kausik Chanda, J.)