

Sl. No.04.
27.01.2025
Suman
Ct. 15

WPA 14480 of 2024

Shri Chanchal Chatterjee
Vs.
The Dankuni Municipality and Ors.

Mr. Sounak Bhattacharya
Mr. Souvik Das
Mr. K. R. Ahmed
Mr. Rudranil Das
Mr. Soumava Santra
Mr. Tapas Chatterjee
..for the petitioner

Mr. Sauradeep Dutta
Mr. Riju Bhowmik
Mr. Mimi Biswas
Mr. Himadree Ghosh
..for the Municipality

Mr. Sabyasachi Bhattacharya
Mr. Suman Nandi
..for respondent nos. 5, 6 and 7

The petitioner alleges unauthorized construction at Dag No. 194(P), Khatian Nos. 2095, 2096, and 2097, J.L. No. 99 of Mouza Kalipur, Ward No. 19, under Dankuni Municipality, allegedly instigated by respondents no. 5, 6, and 7. The report submitted by the Special Officer supports the petitioner's claims, indicating that these respondents have engaged in construction beyond the scope of the sanctioned plan.

The relevant excerpt from the Special Officer's report is as follows:

- ““a) *It is revealed that the total covered area outside the property lying is 216 Sq. ft. which has been marked with Blue in the sketch map.*
- b) *It is also revealed that Septic tank with soak pit and vent pipe seen from outside of the building and the rest part is under the new construction.*
- c) *That the ground floor of pucca covered area inside of the property lying is 663 sq. ft. which is marked with Green where it should be 463.53 Sq. ft. according to sanction Building Plan.*
- d) *That the ground floor pucca covered area outside the property lying is 102 sq. ft. which is marked with Blue in the site plan.*
- e) *The first floor pucca covered area outside the property lying is 685 Sq. ft. which is marked with Green and according to sanction building plan it should be 462.53 sq. ft.*
- f) *That the first floor pucca covered area outside the property lying is 114 sq. ft. which is marked with Blue in the site plan.*
- g) *That total covered area inside the property lying is 1348 sq. ft. marked with Green instead of 925.06 sq. ft. as per the sanction plan.*
- h) *It is also seen that on the side of the Municipal road a cantilever measuring about 1'-03" landing of the stair upto stair head room.
The cantilever of the first floor was also seen to be erected.”*

Counsel for respondents no. 5, 6, and 7, on the other hand, contends that a title suit involving the disputed construction is currently pending between the petitioner's brother and respondents no. 5, 6, and 7. It is asserted that the writ petitioner, as the brother of the plaintiff in that suit, has been instructed by the plaintiff

to file the present petition. Furthermore, it is submitted that respondents no. 5, 6, and 7 have submitted a prayer to the Municipality for approval of a revised sanctioned plan. It appears that there is a subsisting injunction in the pending civil suit that prohibits the construction of the septic tank. However, it should be noted that in pending suit, the Municipality is only a proforma defendant, and no injunction has been issued against the Municipality.

I am of the opinion that the pendency of a civil suit should not hinder the Municipality from fulfilling its statutory duties.

Accordingly, this writ petition is disposed of with the following directions:

The Municipality shall consider the petitioner's request for the demolition of the unauthorized construction, as well as the request for the approval of the revised sanctioned plan submitted by respondents no. 5, 6, and 7, in accordance with the law, after providing an opportunity for hearing to the petitioner and respondents no. 5, 6, and 7.

Following the hearing, a reasoned order shall be communicated to all parties.

The entire process shall be completed within two months from the date of communication of this order.

It is clarified that this Court has not adjudicated the merits of the respective claims of the parties. The Municipality is directed to resolve the matter in accordance with the law, without being influenced by any observations made in this order.

Accordingly, **WPA 14480 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)