

07-07-2025
Item no.5 ML
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Special Civil Jurisdiction
Appellate Side

CPAN No.1562 of 2023

Anjan Bhattacharya

-vs-

Sri Uttam Das & Ors.

arising out of

WPA No.23247 of 2022

Mr. Sabyasachi Mukherjee
Ms. Swastika Saha
Ms. Debjani Chakraborty
Mr. Ranabeer Halder ...for the petitioner

Mr. Shyamal Kumar Das
Ms. Bashra Neshat ...for the contemnors

1. Learned counsel representing the alleged contemnors admits that the construction in question has been made without obtaining any permission from the municipality. It has, however, been submitted that the complaint was made before the municipality at the stage when repairing was being made.
2. On enquiry the municipality found that tile-shed structure exists at the subject place and that there is no requirement for obtaining any permission prior to repairing of the subject structure. The photograph of the disputed construction has been annexed to the affidavit filed by the municipality.
3. The disputed construction appears to be in place for quite some time by now. The persons occupying the unauthorised constructions are already suffering a decree which is under challenge before the competent forum. The petitioner, being the decree-holder, is not in a position to execute the decree because of the pendency of the appeal.

4. The Court is of the opinion that a construction remains to be an illegal one irrespective of its age. The subject unauthorized construction may be in existence for a considerable period of time but by the same the construction neither gets regularized nor legalized, and hence, the construction remains unauthorized and illegal.
5. The municipality is, therefore, directed to take prompt necessary steps against such unauthorized construction. The reasoned order of the Board of Councillors of the Barrackpore Municipality dated February 28, 2024 is set aside.
6. The municipality is directed to revisit the issue all over again in accordance with law. A reasonable opportunity of hearing be given to all the necessary parties.
7. The contempt application stands disposed of.
8. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
9. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

