

GAHC010001402021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/63/2021

MADAN LAL AGARWAL
S/O LATE GAURISHANKAR AGARWAL, R/O GAURISHAKAR BUILDING,
G.N.B. ROAD, P.O. , P.S. AND DIST. TINSUKIA, ASSAM, PIN 786125

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY ITS SECY. TO THE GOVT. OF ASSAM, TOWN AND
COUNTRY PLANNING DEPTT., DISPUR, GUWAHATI 781006

2:THE DIRECTOR

MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI 781006

3:THE CHAIRMAN

TINSUKIA DEVELOPMENT AUTHORITY
P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN 786125

4:THE EXECUTIVE OFFICER

TINSUKIA MUNICIPAL BOARD
P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN 786125

5:PAHNI BHUSAN SHARMA
S/O LATE LALIT CHANDRA SHARMA
R/O CHALIHA NAGAR
C/O CHITRAKUT GAS AGENCY
R.K. MARKET
DEBI PUKHURI ROAD
TINSUKIA TOWN
P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN 786125

6:MADAN MOHAN SHARMA
S/O LATE LALIT CHANDRA SHARMA
R/O CHALIHA NAGAR
C/O CHITRAKUT GAS AGENCY
R.K. MARKET
DEBI PUKHURI ROAD
TINSUKIA TOWN
P.O.
P.S. AND DIST. TINSUKIA
ASSAM
PIN 78612

Advocate for the Petitioner : MR. B. DUTTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

07.01.2021

Heard Mr. B Dutta, learned counsel for the petitioner. Also heard Ms. M Bhattacharjee, learned Government Advocate for respondents No.1, 2 and 4.

Issue notice, returnable by four weeks.

Extra copies of the writ petition be served on the learned counsel for the respondents as indicated above.

Petitioner to take steps for service of notice on the respondents No.5 and 6 by registered post

with A/D within 3(three) days.

Notice is not required to be issued for the present to the respondent No.3 as presently the Tinsukia Development Authority does not have a Chairman.

The petitioner and the respondents No.5 and 6 are neighbours and the petitioner is aggrieved by certain illegal constructions that have been raised by the respondents No.5 and 6. On a complaint being lodged by the petitioner, a communication dated 12.06.2019 was issued by the Tinsukia Municipal Board requiring the respondents No.5 and 6 to demolish the illegal construction that they may have made.

The grievance of the petitioner is that inspite of such notice to the respondents No.5 and 6 to demolish the offending portion of the building, no such demolition had taken place and the respondents are further continuing with the illegal construction. Subsequently, another order of the Tinsukia Municipal Board dated 04.09.2020 was issued to the respondents No.5 and 6 to demolish the offending portion of the building, but still no such demolition has taken place as on date and on the other hand, the illegal constructions are being further carried out.

In view of the *prima facie* case being made out and considering the balance of convenience and irreparable loss that the petitioner may suffer, in the interim, it is directed that the respondent authority being the Executive Officer Tinsukia Municipal Board shall ensure that during the pendency of this writ petition, no further construction is being carried out by the respondents No.5 and 6 in relation to the property referred in the aforesaid two notices.

For ensuring proper compliance of the order, the Executive Officer may take the help of any other officials as may be required.

List after four weeks.

JUDGE

Comparing Assistant