

31.08.2023

BP
Sl. 1
Court No. 17.

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

WPA 1853 of 2023

Bir Bahadur Blon
Vs.
The State of West Bengal & Ors.

Mr. Anand Bhandari
Mr. Panthu Rai
..for the petitioner

Mr. Subir Kumar Saha
Mr. Pretom Das
..for the State

Mr. Akash Dutta
Mr. Zafar Sultan
..for the respondent no.5

Mr. Ujjwal Luksome
Mr. Bikash Singha
..for the Municipality

The respondent no.5 is personally present along with his lawyer. He has not been able to state whether the plot of land upon which he constructed a three storied (G+2) building is owned by him. He also does not have or did not have any sanctioned plan because the whole building was illegally constructed in front of eyes of all of the office bearers of the Board of Administrators of Kalimpong Municipality.

I am told by the learned advocate for the petitioner that Kalimpong Municipality Board was constituted in

2016 and it has lost its life in 2021.

The respondent no.5 has submitted that they started the construction in 2017. Therefore, for a considerable period of time the illegal construction was going on in front of the nose of the local councilor of ward no.7 (I am told that the ward number of the relevant place is 7) namely Ms. Bimla Chhetri.

I direct the petitioner to add Ms. Bimla Chhetri a party respondent in this matter in course of the day. Said Bimla Chhetri should appear in person before this court on 15th September, 2023 to face some questions from this court and whether any affidavit would be required from her in respect of her reply would be decided on that day.

I direct the Registrar General to issue a notice to the Superintendent of Police of the District of Kalimpong intimating that said Bimla Chhetri has been directed by this court to appear in person on 15th September, 2023 when this matter would be taken up at 2 p.m. A copy of the order passed today should also be sent to the Superintendent of Police, Kalimpong and the Superintendent of Police, Kalimpong is directed to intimate said Bimla Chhetri about the order of the court.

It is made clear that if on that day under some pretext or other said councilor Bimla Chhetri fails to appear, appropriate orders will be passed by this court for

her presence.

The Executive Officer of Kalimpong Municipality is also present in court today. This court has asked him whether the Municipality can clear the debris taking appropriate precaution so that residential house of the petitioner just below the level where the illegal house was built is not jeopardized by the debris.

In reply to a question of this court, the private respondent has submitted that one Kamal Rijal told the petitioner to construct the illegal building on the plot of land of the petitioner and there the Sub-Divisional Officer was also present.

I direct the respondent no.5 to file one affidavit stating all facts as to how he constructed the illegal building on a plot of land which was owned by some other person. Such affidavit is to be filed on 15th September, 2023.

The Executive Officer, Kalimpong Municipality has filed the demolition report dated 28.08.2023 along with seven photographs. His full name is signed on the reverse side of the photographs. Those photographs and the report are kept on record.

I adjourn this matter till 15th September, 2023.

(Abhijit Gangopadhyay, J.)

