

21.12.2020
Item No. 180
Ct. No.4
PG

W.P.A. 10187 of 2020
(Via Video Conference)
Swapan Kundu
Vs.
Chandannagore Municipal Corporation & Ors.

Mr. Meghnath Dutta
Mr. Abhishek Shaw.....for petitioner

Mr. Suman Basu.....for Chandannagore Municipal
Corporation

Mr. Ashish Guha
Mr. Naren Ghosh Dastidar.....for State

Mr. Ujjal Ray.....for respondent no. 7

Mr. Dutta, learned advocate appears on behalf of petitioner and files fresh affidavit of service to show all have been served. His client wants Chandannagore Municipal Corporation to take action pursuant to demolition notice dated 24th November, 2016. He relies on section 218 of West Bengal Municipal Act, 1993.

Mr. Ghosh Dastidar, learned advocate appears on behalf of State and submits, since police has been made party, there is a report. He hands up police report, which is of no assistance to Court.

Mr. Ray, learned advocate appears on behalf of private respondent and submits, there is partition suit pending between petitioner and his client. The

dispute is civil in nature and this Court should not pass any order.

The provision relied upon by petitioner provides for contingency of default by the owner to cause demolition. Default has taken place. The Corporation must act by demolishing at expense of the owner. The issuance of demolition notice is in exercise of statutory powers. Such action in exercise of statutory powers cannot be said to be impeded by civil case pending between private respondent and petitioner. The Corporation will act on notice to petitioner and the owner, within four weeks from date of communication of this order. In event there is no demolition within that time, the Corporation will inform petitioner why so. The police will render assistance to the Corporation on approach.

Writ petition is disposed of.

This order will not prevent private respondent from seeking statutory remedy against the demolition order, if permissible.

(Arindam Sinha, J.)