

Court No. 24

02.07.2021

(Item No. 12)

(AB)

**W.P.A 4336 of 2021
(Via Video Conference)**

Dilip Kumar Mohanta

vs

The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee

Mr. Akashdeep Mukherjee

Mr. Pintu Karar

..... for the petitioner

Mr. Subhasis Bandyopadhyay

... for the Burdwan Municipality

Mr. Probal Kumar Mukherjee

Mr. Surhrid Sur

.... for the respondent no. 9

Affidavit of service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction by the private respondent.

It appears from records that by order dated 23rd July, 2018 in an earlier writ petition being WP 20467 (W) of 2016 filed by the petitioner, there was a direction upon the Municipality to invoke Section 218 of the West Bengal Municipal Act, 1993.

The Municipality in compliance of the aforesaid order invoked the provision of Section 218 and passed an order of demolition. The delinquent has challenged the said order of demolition by filing appeal before the statutory forum. The appeal is pending till date.

The petitioner submits that the Municipality is liable to demolish the unauthorized construction in compliance of the order passed by the Hon'ble High

Court. I am unable to accept the contention of the petitioner. An aggrieved party has the legal right to approach the appellate forum being dissatisfied with an order passed by the statutory body. The right of appeal being a statutory one has not been taken away by the order dated 23rd July, 2018.

In view of the same no relief can be granted to the petitioner at this stage. The order of demolition shall abide by the result passed by the appellate authority.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)