

23.07.2021
Sl. No.5
srm

W.P.A. No. 5114 of 2021

Sahadeb Das
Vs.
The State of West Bengal & Ors.

Mr. Prantick Ghosh

...for the Petitioner.

Mr. Bikash Kumar Chakraborty,

Ms. Soma Chowdhury

...for the Khardah Municipality.

Mr. Barun Kumar Samanta

...for the Respondent No.5.

The writ petition has been filed challenging an order dated February 1, 2021 passed by the Executive Engineer, Khardah Municipality. By the said order, the petitioner was directed to demolish all the unauthorised construction made by him within 20 days from the date of receipt of the notice, failing which, the municipal authorities would take appropriate steps to demolish the unauthorised construction on the premises in question.

The petitioner's contention is that the house which has been held to be unauthorised, was built 80 years ago when there was no requirement for obtaining sanction from the municipality. Thus, according to the petitioner, the order of demolition suffers from error apparent on the face of record and should be set aside by this Court.

From the order impugned, it appears that the municipal authorities had initiated the proceedings on the basis of a direction of this Court. Upon hearing the parties and upon consideration of the documents, it was found that some portions had been constructed by the petitioner in the area under the possession of Dipa Baisya, the respondent No.5.

When such factual aspects have been decided by the Executive Engineer, Khardah Municipality upon going through the documents, in my opinion, the remedy of the petitioner lies before the Court having jurisdiction under Section 218(3) of the West Bengal Municipal Act, 1993.

The petitioner shall be at liberty to pray for urgent interim directions in the appeal before the Court, which shall be considered in accordance with law by the learned Court on an urgent basis, upon hearing the parties.

This Court has not decided any of the issues raised in the writ petition. The alternative remedy available to the petitioner must be exhausted by the petitioner.

The learned Civil Court, as the appellate authority, shall dispose of the matter expeditiously and in accordance with law, upon taking into consideration the contentions of the petitioner, the respondent No.5 and the municipal authority as also the documents relied upon by all the parties. The entire exercise shall be completed within 12 weeks from date of filing

of the appeal. A reasoned order shall be passed and communicated to all concerned.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)