

29.01.2021
SL No.77
Court No.24
(P.M.)

WPA 4789 of 2020

Ruma Bhadra Paul
Vs.
The State of West Bengal & Ors.

Mr. Sudeep Sanyal,
Mr. Dibashis Basu,
Mr. Arun Bandyopadhyay
... for the petitioner

Mr. Supriyo Roy Chowdhury
Mr. Sankar Ghosh
... for the Municipality

Mr. Sabyasachi Mukherjee
Mr. Bibek Dey
..... for the respondent No. 7.

The petitioner is aggrieved by the illegal and unauthorized construction made in the roof of Radha Krishna Complex situated at Guhapara, Nabapally, Barasat, Kolkata – 700126. The petitioner had made a complaint before the Chairman of the Barasat Municipality by letter dated 21st January, 2020. The petitioner alleges that no steps have been taken by the Municipality till date.

The learned advocate appearing on behalf of the Municipality submits, upon instruction, that in response to the complaint filed by the petitioner steps have been taken for demolition of the illegal tin shed made in the roof of the said premises. The Chairman of the Municipality by a letter dated 13th March, 2020 has issued the order of demolition.

The learned advocate appearing on behalf of the private respondent submits, upon instruction, that the petitioner was also a party to the resolution which was

taken by the flat owners' association for construction of the tin shed in the roof of the said premises.

It is elementary law that no resolution can be adopted for making construction without taking necessary sanction from the competent authority.

In the instant case, the Municipality has not given any sanction to the occupiers of the said premises for construction of the tin shed over the roof of the said premises. That being so, the Municipality has already initiated proceeding for demolition of the illegal construction made without the sanction plan.

In view of the above, the instant writ petition is disposed of by directing the Municipality to proceed with the demolition order as passed and communicated by the Chairman of the Municipality to the private respondent by letter dated 13th March, 2020, strictly in accordance with law, at the earliest, but positively within a period of three months from the date of communication of a copy of this order, unless the said order of demolition is stayed/modified/varied by an order of the competent Court.

The instruction given by the Municipality through the learned advocate is retained with the records.

WPA 4789 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)