

25.08.2021
Court No. 19
Item no.07
CP

WPA 11982 of 2021

Debasis Chatterjee
Vs.
The State of West Bengal & ors.

(via video conference)

Mr. Debdas Khanna
Mr. Himadri Sikher Chakraborty
Ms. Barnali Gantait

.....for the petitioner.

Mr. Subhasis Bandopadhyay

....for the Municipality.

Ms. Chama Mookherji

.....for the respondents 8 & 9.

Mr. Sankar Prashad Dalapati
Mr. S. Dewan
Mr. S. Mondal

.....for the respondent no. 10.

The petitioner is one of the co-sharers in respect of Plot No. 7684/7912, pertaining to L. R. Khatian No. 14514, J.L. No. 30. According to the petitioner, the said plot is a Bastu land and there is a dwelling house in which the petitioner has 1/5th undivided share. The petitioner is aggrieved by the order of demolition issued by the Administrator, Burdwan Municipality, under Section 218 of the West Bengal Municipal Act, 1993. The petitioner alleges that without describing the portion to be

demolished, the order has been issued. He also submits that a non-speaking order amounts to violation of principles of natural justice and, as such, the writ petition is maintainable before this court.

Mr. Bandopadhyay, learned advocate appearing on behalf of the Burdwan Municipality, submits that the order is an appealable order under Section 218(3) of the West Bengal Municipal Act, 1993. He further submits that a civil suit was filed challenging the same demolition order and the ad-interim prayer of the petitioner was refused.

Mr. Dalapati, learned advocate appearing on behalf of the respondent no. 10, submits that the order was issued pursuant to a proceeding initiated by the municipality. Initially a 'Stop Work Notice' was issued by the municipality. An FIR was also lodged. Ignoring the 'Stop Work Notice', the petitioner continued construction and upon hearing the petitioner and other interested parties, the order of demolition was passed.

Having considered the rival contentions of the parties, this court is of the opinion that the prescribed authority has indicated in the order as to why the alleged construction by Mr. Debasis Chatterjee, i.e., the petitioner, after issuance of the 'Stop Work Notice' dated January 20, 2021, should be demolished.

Under such circumstances, this court is of the opinion that the petitioner ought to have approached the appropriate alternative forum as per the statute. This court has not decided the merits of the claims of the petitioner. The petitioner shall be entitled to approach the appellate forum in accordance with law. All points raised by the petitioner in the writ petition may be raised before the appellate forum.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)