

11. 19.01.2022
Ct. No.06
Tanmoy

**M.A.T. 615 of 2021
With
IA No: C.A.N. 1 of 2021
With
IA No: C.A.N. 3 of 2021**

**Sri Barun Barai
-Versus-
Smt. Tripti Sinha & Ors.**

(Through Video Conference)

Mr. Husen Mustafi, Adv.

...for the appellant.

Mr. Shibendra Nath Chattopadhyay, Adv.

...for the State.

Ms. Mousumi Bhowal, Adv.

...for the South Dum Dum Municipality.

By consent of the parties the appeal and the connected applications are taken up together for hearing through video conference.

The writ petition was filed by the respondent no.1 before the learned Single Judge.

The learned Judge observed that by an order dated October 13, 2020 the appellant was directed by the Dum Dum Municipality to demolish at his own cost, the unauthorised portion outside the relevant building which was constructed on the relevant plot. The writ petitioner/respondent no.1 alleged inaction on

the part of the Municipality in implementing or carrying out the said order of demolition.

The learned Judge, by the order impugned, directed the Municipality to take necessary steps for demolition of the unauthorised construction and to realise the cost of such demolition from the appellant.

Before us, the appellant has submitted that he was not served with copy of the writ petition and as such, the order impugned has been passed without giving him any opportunity to defend the case before the learned Single Judge. It has, further, been urged that the demolition order was passed by the Municipality without hearing him.

We have heard the parties.

It appears that in spite of the fact that the order of demolition was passed on October 13, 2020, the appellant chose not to prefer any statutory appeal or to otherwise challenge the said order of demolition. The appellant cannot be permitted to question the propriety of the demolition order in the writ petition filed by the respondent no.1 seeking implementation of the said demolition order when he did not challenge the same.

The order impugned virtually is an order of implementation of the order of demolition which has remained unchallenged till date. The order impugned as such does not call for any interference.

Accordingly, the appeal being M.A.T. 615 of 2021 and the connected applications being IA No: C.A.N. 1 of 2021 and IA No: C.A.N. 3 of 2021 are dismissed.

We, however, clarify that this order of dismissal shall not prevent the appellant from challenging the demolition order before any appropriate forum, if he is legally entitled to do so.

All parties shall act in terms of the server copy of this order downloaded from the official website of this Court.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)