

D/L
Item No. 19
22.07.2022
KOLE

MAT 1133 of 2022
With
IA No. CAN 1 of 2022
Tuhin Ghosh & Anr.
-Vs.-
Burdwan Municipality & Ors.

Mr. Soumabho Ghose,
Md. Z. Rauf,
Mr. A. Pandey,
Mr. Z. Pandey,

...for the appellants.

Mr. Subhasis Bandopadhyay,

...for the Municipality.

Mr. Aninda Lahiri,
Mr. Pranati Das,

...for the respondent nos. 7 to 9.

By consent of the parties the appeal and the application are taken up for hearing together.

A judgment and order dated July 13, 2022, whereby the appellants' writ petition being WPA No. 15294 of 2022 was dismissed, is assailed in the present appeal.

The writ petitioners approached the learned Single Judge challenging an order of demolition dated June 10, 2019 passed by the Chairman, Burdwan Municipality and a notice dated June 28, 2022, whereby the Chairman informed the writ petitioners that the demolition will be effected on July 14, 2022.

The Learned Single Judge noted that the demolition order passed under Section 218 of the West Bengal Municipal Act, 1993 is appealable under the provisions of

Section 218(3) of the said Act. However, the writ petitioners did not challenge such order by way of statutory appeal or otherwise till they approached the learned Single Judge. There was complete indolence on the part of the writ petitioners. The writ petition was accordingly dismissed. Being aggrieved, the writ petitioners are before us by way of the present appeal.

We have heard Mr. Ghosh, learned Advocate for the appellants, Mr. Lahiri, learned Advocate for the private respondents and Mr. Bandopadhyay, learned Advocate for the Municipality. We see no apparent infirmity in the order under appeal. Indeed, the appellants took no steps to challenge the order dated June 19, 2019 contemporaneously or within a reasonable period of time. Only upon being intimated that the demolition order will be implemented on July 14, 2022, they rushed to Court. The writ court is a court of equity. It does not come to rescue of litigants who sleep over their rights. We are not inclined to interfere with the order under appeal.

However, we clarify that the Municipality must take due care to ensure that no portion of the authorized construction is demolished in the process of demolition of the unauthorized construction. The demolition order refers to unauthorized construction to the extent of 207 sq. ft. mainly on the northern and southern part. Naturally, only 207 sq. ft. will be demolished. Needless to say that the demolition activities will be undertaken by the Municipality strictly in accordance with law.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)