

S/L 15
08.02.2022
Court. No. 19
GB

W.P.A. 18901 of 2021

Pampa Mondal
VS
The State of West Bengal & Ors.

Mr. Pampa Dey (Dhabal).
...for the Petitioner.

Mr. Sarwar Jahan,
Mr. Sk. Abumusa.
...for the Respondent No.6.

Mr. Raghunath Chakraborty.
...for the Maheshtala Municipality.

Affidavit-of-service and the supplementary affidavit
filed in Court today be kept with the record.

The remedy of the petitioner against the order of
demolition lies in an appeal to be filed under the provisions of
the West Bengal Municipal Act, 1993.

This Court is not willing to interfere with the order of
demolition.

It is submitted by the petitioner that an appeal has
been filed before the learned Civil Judge (Junior Division), 3rd
Court at Alipore and the same has been registered as Title
Suit No.1546 of 2021. It is the contention of the petitioner
that due to the pandemic situation, the functioning of the
learned court below was staggered and, as such, the appeal
could not be heard. In the meantime, the Maheshtala
Municipality has issued demolition notices to the petitioner
and has also attempted to demolish the construction of the
petitioner.

Mr. Jahan, learned advocate appearing on behalf of the respondent no.6 submits that the correctness of the statements with regard to the filing of the appeal is in doubt.

However, as the law provides a statutory remedy to the petitioner and the petitioner appears to have availed of the said remedy, the petitioner should not suffer for non-functioning of the court.

Having appreciated such situation, this Court is of the opinion that the Maheshtala Municipality must not proceed with the demolition of the premises of the petitioner for a period of three months, within which time the petitioner must seek appropriate order before the learned court below. If the petitioner is not successful in getting any interim order in the pending appeal, then the proceeding initiated by the Municipality shall continue in accordance with law.

These observations are not on the merits of the appeal but on the fate of the litigants, who had suffered due to non-functioning of regular courts during the pandemic situation. This order is also not an opinion on the point of grant of interim protection to the petitioner. The learned court below shall act independently.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)