

S/L 4
14.02.2022
Court. No. 19
GB

W.P.A. 19314 of 2021

Sk. Kabir Uddin
VS
State of West Bengal & Ors.

Mr. S. Shah.
Md. Shamim Halder,
...for the Petitioner.

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

Mr. Amal Kr. Sen,
Mr. Parijat Some.
...for the State.

Mr. Indrajit Bhattacharjee.
...for the Respondent Nos.6 to 8.

The petitioner has alleged unauthorized construction by the respondent nos.6 to 8. It is the contention of the petitioner that a demolition order has been passed dated September 28, 2021 by the Chairperson of the Maheshtala Municipality, but the order has not yet been implemented. The petitioner prays that the municipality be directed to implement the order of demolition, which is Annexure-P/11 at Page-33 to the writ petition.

Mr. Bhattacharjee, learned advocate appearing on behalf of the respondent nos.6 to 8 submits that challenging the said order of demolition, the said respondents have already approached the learned Civil Judge (Junior Division), 3rd Court at Alipore in terms of Section 218(3) of the West Bengal Municipal Act, 1993. The said appeal has been registered as Title Suit No.1595 of 2021. It also appears that an application has been filed for an interim order and

the learned court below has directed the defendants to show cause why the orders prayed for therein has not been passed. The information slip, supplied by the learned court below, is kept on record.

The Officer on Special Duty of the Municipality has also filed a report through his learned advocate dated February 9, 2022, from which it appears that the contention of the writ petitioner that there was an order of demolition, is correct. The said report is also kept on record.

However, as the respondent nos.6 to 8 have approached the appellate forum constituted under a special statute against the order of demolition, this Court is of the opinion that some time must be given to the said respondents to pray for appropriate orders before the learned appellate forum.

This order is being passed not on the merits of the claims of the respondent nos.6 to 8, but on the appreciation of the fact that due to the irregular functioning of the civil courts during the pandemic situation, the litigants may not have been able to approach the courts with expedition and the courts may not have been available to pass urgent orders.

Under such circumstances, the writ petition is disposed of with a direction upon the Maheshtala Municipality to take steps for implementation of the order after a period of three months from date of communication of this order. If within the said period, the respondent nos.6 to 8 do not produce any protective order and/or interim order against such order of demolition before the

municipality, the municipality will be at liberty to proceed with the demolition, in accordance with law.

This Court has not gone into the merits of either the claims of the petitioner or those of the respondent nos.6 to 8. This Court has also not decided the order of demolition on merits, but has relegated the parties to the appropriate forum.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)