

03. 30.09.2022
Ct. No.6
Tanmoy

M.A.T. 1434 of 2022

**Kamini Bala Bar
-Versus-
Maheshtala Municipality & Ors.**

**With
IA No: C.A.N. 1 of 2022**

Mr. Nirmalya Kumar Das, Adv.

...for the appellant.

Mr. Brotindro Mullick, Adv.,
Ms. Sudipta Bera, Adv.

...for the CESC.

Affidavit of service filed in Court today be kept with the records.

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

This appeal is directed against a judgment and order dated July 22, 2022, whereby the appellant's writ petition was disposed of.

The appellant approached the learned Single Judge contending that a structure standing on her land was demolished by Maheshtala Municipality without serving any prior notice on her and the Municipality subsequently took away the debris and the materials of the said structure after demolition. She claimed compensation on account of such illegal and unauthorized demolition. The

learned Judge disposed of the writ petition with the following observation:-

“In view of the above, leave is granted to the petitioner to file appropriate application before the Maheshtala Municipality along with all supporting documents of her claim and highlighting her grievances.

In the event such a representation is made, the same shall be considered by the Chairman of Maheshtala Municipality strictly in accordance with law, at the earliest, but positively within a period of eight weeks from the date of submitting the representation.

The Chairman of the Maheshtala Municipality shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

If it transpires that the demolition was conducted without giving any prior intimation to the petitioner, then the Municipality shall consider the prayer for grant of compensation to the petitioner in accordance with law.”

Being aggrieved, the writ petitioner has come up before us.

We see from the affidavit of service that the respondent Municipality has been served. However, nobody appears for the Municipality.

The apprehension of the appellant is that since the Chairman had issued the demolition order, going back to the Chairman with a claim for compensation will be futile. We see some logic in such submission.

Accordingly, we modify the order impugned only to the extent that if the appellant makes a representation as she has been permitted to do by the learned Single Judge, the same will be considered and disposed of by the Board of Councillors of the Municipality and not by the Chairman alone, by a reasoned order, in accordance with law, within

a period of twelve (12) weeks from the date of receipt of the representation, after giving an opportunity of hearing to the appellant or her authorized representative. The order so passed shall be communicated to the appellant within a week from the date of the order.

We have not gone into the merits of the appellant's claim. The Board of Councillors of the Municipality shall take an informed decision on the representation of the appellant, if made, in accordance with law.

Since we have not called for affidavits, the allegations made in the stay petition shall be deemed not to have been admitted by the appearing respondent.

The appeal being M.A.T. 1434 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are accordingly disposed of. However, there will be no order as to costs.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)