

44 27.09.2022
rkd Ct.15

W.P.A. 21850 of 2017

Nanda Kaibarta

-vs-

State of West Bengal & Ors.

Mr. Partha Sarathi Das,
Md. Hafiz Ali

....for the petitioner.

Mr. Syed Nasirul Hossain

....for the respondent nos.1 & 4.

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioner and the State respondents. However, Kandi Municipality is not represented before this Court today.

In the writ petition challenge has been thrown to the notice dated 9th August, 2017 issued by the Vice Chairman of Kandi Municipality intimating the petitioner that an inspection of unauthorized construction would be carried out on 16th August, 2017 wherein petitioner was requested to remain present. It is necessary to quote prayer (b) of the writ petition:

“b) A writ in in the nature of mandamus should not be issued commanding the respondents and/or their agents/servants to restore the building of the petitioner which has been illegally demolished by the respondent nos.2 and 3 through their men and agents in its

original position and to pay adequate compensation to the petitioner for illegal demolition of partial portion of the building of the petitioner.”

From prayer (b) couched in the writ petition, it appears that pursuant to the said notice dated 9th August, 2017 the municipal authority initiated a demolition proceeding and unauthorized construction made by the petitioner was demolished. Petitioner prays for restoration of such construction and payment of compensation.

This Court has posed query to the learned advocate representing the petitioner about the demolition order issued by the concerned authority of Kandi Municipality based on demolition proceeding initiated by the said municipality. However, this Court does not get any satisfactory reply and no demolition order has been produced before this Court today nor it has been annexed to the writ petition. Since alleged unauthorized construction has already been demolished by the concerned authority of Kandi Municipality on initiating demolition proceeding in terms of the order passed by a coordinate Bench on 17th June, 2015 the relief has sought for by the petitioner at

this stage cannot be granted.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to approach the concerned authority of Kandi Municipality to supply the demolition order based on demolition proceeding initiated by the said municipality within a period of four weeks from date and if such approach is made by the petitioner within the aforesaid time the demolition order to be supplied to the petitioner if the same is not supplied in the meantime.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)