

Item No.5

28.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 22440 of 2022
Snigdha Saha
-vs.-
The State of west Bengal & Ors.

Mr. Soumen Chatterjee
... for the petitioner.

Mr. Sayan Sinha
... for the Bongaon Municipality.

Ms. Mousumi Bhowal
Mr. Ishan Bhattacharya
... for the respondent no. 9.

The order passed by the Board of Councillors communicated to the petitioner by the Chairman of the Bongaon Municipality on August 8, 2022 is under challenge in the present writ petition.

The petitioner claims to be a tenant in the premises in question. The building being in a ruinous state has been directed to be demolished by the Municipality. The petitioner was given sixty days' time to vacate the premises.

It appears from the submissions made on behalf of the parties and upon perusal of the documents annexed to the writ petition that the aforesaid order was passed in compliance of the direction passed by this Court on March 31, 2022 in WPA 2940 of 2022 (Sri Subir Dutta v. The State of West Bengal & Ors.), wherein the Court directed the Municipality to invoke Section 223(4) of the

West Bengal Municipal Act, 1993 after granting an opportunity of hearing to all the parties.

The Court made it clear that the tenant must be accommodated in the newly constructed building in respect of an area proportionate to the area enjoyed by the tenant, subject to the decision of the civil suit, pending between the parties.

The area which the petitioner is occupying is disputed.

On the last occasion when the matter was taken up for hearing, the Court directed the parties to settle the dispute amicably. It has been submitted by the learned advocates representing the parties that the settlement failed.

The Court is accordingly required to scrutinize the order impugned in the present writ petition. The impugned order was passed after giving reasonable opportunity of hearing to both the parties and upon perusal of the inspection report filed by the Sub-Assistant Engineer of the Municipality.

The specific finding is that the building is in a ruinous and inhabitable conditions. The same is required to be demolished.

In the earlier writ petition the Court preserved the right of the petitioner by directing that she must be accommodated in the newly constructed building in respect of an area proportionate to the area enjoyed by her. Such reinstatement shall be subject to the decision of the civil Court. The civil suit is subjudice.

The Court does find any apparent error or infirmity in the impugned order and accordingly refrains to exercise jurisdiction in the matter.

The order passed by the Municipality does not require any interference.

As last chance, the petitioner is directed to vacate the premises by December 30, 2022.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)