

Item No. 3

3.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23386 of 2022
Chaitali Seth & Anr.

v.

The State of West Bengal & Ors.

Mr. Sanjib Dwan
Ms. Jeenia Rudra
... for the petitioners.

Mr. Tapan Kumar Mukherjee
Mr. Somnath Naskar
... for the State respondents.

Mr. Sirsanya Bandopadhyay
Mr. Tirthankar Dey
Mr. Arka Kumar Nag
... for BMC.

The petitioners are aggrieved by the communication dated October 14, 2022 requiring the petitioners to demolish the unauthorized structure at Premises No. AE-720, Sec-1, Salt Lake City, Kolkata-700 064. The said communication was made pursuant to the order passed by the Commissioner, Bidhannagar Municipal Corporation dated August 8, 2022.

The petitioners submit that though they were present at the time of hearing, but the reasoned order dated August 8, 2022 was never communicated to them. Without communicating the reasoned order, notice of demolition of the unauthorized structure by the men and agents of the Bidhannagar Municipal Corporation (in short BMC) has been issued.

Learned advocate appearing for the BMC submits that the order dated August 8, 2022 was communicated

to Raghunath Mallick, husband of the petitioner no. 1 and father of the petitioner no. 2. The said registered envelope was duly received by or on behalf of the addressee.

It has been submitted by the learned advocate for the petitioners that the said Raghunath Mallick had expired and no communication can be made in favour of a dead person.

Though, it appears from records that the letter addressed to Raghunath Mallick, since deceased, has duly been received by his heirs at the said address, but technically speaking, no communication was made to the petitioners who are to demolish or take steps further to the reasoned order dated August 8, 2022.

In view of the above, the BMC is directed to serve the reasoned order dated August 8, 2022 upon the petitioners within a week from date.

The parties shall take necessary steps in terms of the said reasoned order. The BMC is restrained from giving any effect or further effect to the reasoned order dated August 8, 2022 till November 18, 2022.

A copy of the reasoned order dated August 8, 2022, copy of the notice dated August 8, 2022, the envelope addressed to Raghunath Mallick and the track report showing service of the reasoned order upon Raghunath Mallick are retained with the records.

It will be open for the petitioners to collect the reasoned order dated August 8, 2022 from the office of the BMC.

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.)