

21.12.2022
Item No.6.
Court No.6.
AB

M.A.T. 1771 of 2022
With
IA CAN 1 of 2022

Lutfa Begum @ Lutfunnesha Bibi
Vs
Board of Councillors,
Bolpur Municipality & Others

Mrs. Arundhati Banerjee,
Mr. Kaustav Banerjeefor the Appellants.

Mr. Uttiya Ray,
Mr. Ashutosh Pal,
Mr. Arnab Mandal
.....for the Respondent Nos.1, 2 & 4.

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

The appellant/writ petitioner challenged a stop work notice issued to her by the Bolpur Municipality. The learned Judge called for a report from the Municipality. A report in the form of affidavit was filed by the Chairperson of the Municipality. The report was to the effect that the constructions made by the appellant/writ petitioner as well as the private respondent do not conform to either the originally sanctioned plan or to the revised sanctioned plan. The learned Judge refused to interfere with the stop work notice and disposed of the writ petition. Hence, this appeal.

We are told that the proceedings before the Municipality have culminated in a demolition order

being issued by the Municipality to the appellant. A notice dated November 4, 2022 issued under Section 218 of the West Bengal Municipal Act, 1993, has been served on the appellant requiring her to demolish the unauthorized construction within 15 days from the date of receipt of the notice, failing which appropriate steps will be taken in accordance with law. Obviously, the appellant has not complied with the notice. The Municipality has also so far not taken any step.

Let the Municipality not take any coercive step till January 10, 2023. If, in the meantime, the appellant prefers statutory appeal before the Prescribed Forum, the same shall be decided in accordance with law. The appellant will be at liberty to pray for interim order in the appeal. If the appellant does not prefer appeal by January 10, 2023 or fails to obtain interim protective order in the appeal by the said date, the Municipality will be free to take steps in accordance with law.

We have not gone into the merits of the case. If any appeal is preferred by the appellant against the demolition order, the same shall be decided by the Appellate Forum in accordance with law without being influenced by any observation in this order.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

M.A.T. No.1771 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)