

29 & 30
17.07.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 8854 of 2023

**Subir Kumar Datta
-versus
The State of West Bengal & Ors.**

With

W.P.A. 5309 of 2023

**Subhash Chandra Datta
-versus-
The State of West Bengal & Ors.**

**Mr. Sankar Biswas,
Ms. Ananya Adhikary.
...For the Petitioner in WPA 8854
of 2023 and for the respondent
nos. 5 and 6 in WPA 5309 of 2023.**

**Mr. Koushik Roy.
...For the Petitioner in WPA 5309
of 2023 and for the private
respondents in WPA 8854 of 2023.**

**Mr. Subhabrata Das,
Mr. Kartick Kumar Goyal.
...For the Municipality.**

**Mr. Wasim Ahmed,
Mr. Sk. Md. Masud.
...For the State
in WPA 5309 of 2023.**

The petitioner, Subir Kumar Datta seeks implementation of the order of demolition passed by the North Barrackpore Municipality on 20th February, 2023. By the said order, the unauthorized construction has been directed to be demolished.

The petitioner, Subhash Chandra Datta is aggrieved by the order of demolition passed by the North Barrackpore Municipality on 20th February, 2023 communicated vide communication dated 21st February, 2023.

The person responsible for making unauthorized construction i.e. Subhash Chandra Datta has been directed to demolish the unauthorized construction.

Subhash has not been able to produce before this Court any document to show that the construction was made pursuant to the permission/sanction of the Municipality. It has been submitted that the construction in question is in existence for a long period of time.

There is an order of status quo passed by the learned Civil Judge, (Senior Division), 3rd Court, at Barasat in Title Suit 496 of 2022.

It appears that in the earlier writ petition filed by Subir Kumar Dutta being WPA 22092 of 2022, the Court took note of the submission made by the petitioner that despite the order of status quo, the private respondent i.e. Subhash Chandra Datta was merrily carrying on with the construction work without obtaining any permission/sanction from the Municipality. The Court took note of the submission of the person responsible for making construction that no new construction was being made but only repairing work was being done.

Learned advocate appearing for the North Barrackpore Municipality produces the communication

addressed to the parties with regard to the demolition of the unauthorized construction.

The parties were duly heard by the Board of Councillors of the Municipality. The sketch clearly mentioning the unauthorized portion and the copy of the inspection report are placed on record.

It appears that the order of demolition was passed upon complying with the provisions of law and adhering to the principle of natural justice.

The person responsible is duty bound to implement the order of demolition.

It further appears that the order of demolition is an appealable one and till date no appeal has been preferred.

If the person responsible fails to obtain any order staying/modifying/setting aside the impugned order of demolition by 31st August, 2023, then it will be open for the North Barrackpore Municipality to take necessary steps to proceed with the demolition of the unauthorized construction,.

Both the writ petitions are disposed of.

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

(Amrita Sinha, J.)