

13 16.10.2023
rkd Ct.15

W.P.A. 14066 of 2018
(IA NO: CAN 3/2022)

Tapan Sil

-vs-

The State of West Bengal & Ors.

Mr. Anupam Bhattacharya,
Mr. Mritunjoy Saha

....for the petitioner.

Mr. S. Roy,
Mr. Goutam Chakraborty

....for the private respondents.

Mr. Arijit Dey

....for the Baranagar Municipality.

In the writ petition petitioner has questioned the order of the Board of Councillors of Baranagar Municipality dated 11th June, 2018 whereby the Board of Councillors unanimously decided in its meeting dated 11th June, 2018 to regularise the construction made by the private respondents being respondent nos. 9 to 11.

The learned advocate representing the petitioner complains that the construction made by the private respondents was not in consonance with the plan sanctioned by the Municipality and necessary side space has not been kept open while making the alleged construction. According to the petitioner the order of regularising the construction made by the private respondents is erroneous.

The learned advocate representing the Municipality has drawn attention of this Court to

the provisions of Section 218(3) of the West Bengal Municipal Act, 1993 which prescribes the appeal provision whereby the affected party can prefer an appeal against an order passed under Section 218(1) of the said Act.

Having considered the submissions made on behalf of the parties to this writ petition this Court finds that the submissions made on behalf of the Corporation is correct that there is an appeal provision under Section 218(3) and the petitioner without preferring an appeal against the order dated 11th June, 2018 passed by the Board of Councillors has straightway approached this Court with the present writ petition.

In consideration of the existence an alternative efficacious speedy remedy available as contemplated under Section 218(3) the present writ petition is not entertained.

Accordingly, leave is granted to the petitioner to prefer an appeal under Section 218(3) before the Appellate Authority.

If such appeal is preferred within six weeks from date in that event the Appellate Authority shall decide the appeal on merit and point of limitation shall not to be a relevant consideration.

With the aforesaid direction, the writ

petition stands disposed of.

Application, if any pending, also stands disposed of.

However, there shall be no order as to costs.

Affidavit-of-service filed on behalf of the petitioner is taken on record.

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.)