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11.07.2023
d.p.

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

W.P.A 15924 of 2023

**Kiran Debi Shaw @ Kiran Debi & Anr.
-versus
The State of West Bengal Ors.**

**Mr. Anit Dey.
...For the Petitioners.**

**Mr. Soumen Das.
...For the Municipality.**

**Mr. Priyankar Saha.
...For the State.**

**Mr. Shuvro P. Lahiri,
Mr. Rajesh Naskar.
...For the Respondent Nos. 6 and 7.**

The present writ petition has been filed seeking cancellation of the order of demolition dated 1st December, 2021 passed by the Naihati Municipality.

The petitioners submit that the Board of Councillors, Naihati Municipality, in compliance of the direction passed by the Court in WPA 26141 of 2018, considered the issue of unauthorized construction raised by the private respondents and upon hearing all the parties was pleased to observe that the construction made by the petitioners over Holding No.128, Robertson Road is in accordance with the sanctioned building plan and there is no question of unauthorized construction at the above noted holding.

The petitioners contend that once the Municipality observed that there is no unauthorized construction, the Municipality ought not to have passed the order of demolition.

The Municipality by a further communication dated 10th July, 2023 intimated the petitioners that the demolition programme will be conducted on 12th July, 2023 at 1 P.M.

Learned advocate appearing for the Municipality is yet to receive any instruction in the matter.

It has been submitted that the order of the Board of Councillors was passed in the year 2019 and the order of demolition was passed thereafter on 1st December, 2021.

Learned advocate appearing for the Municipality intends to take instruction as to whether in the interregnum, between 2019 to 2021, any unauthorized construction was made by the petitioners.

Learned advocate appearing for the private respondents submits, upon instructions that, the order of demolition was passed in compliance of the direction passed by a Co-ordinate Bench of this Court.

A contempt proceeding is pending before the said Bench and contempt rule had to be issued as the contemnors were not taking steps for compliance of the direction passed by the Court. The contempt application is reported to appear in the list on 13th July, 2023.

It has been submitted that there were previous orders of demolition which remained unimplemented.

It appears that an earlier writ proceeding was initiated by the private respondents in the year 2018. The Court, in order dated 14th January, 2022 recorded that the Municipality passed the order of demolition on 1st December, 2021. The petitioners ought to have taken steps promptly upon receipt of the notice of demolition.

As it appears that the Municipality is taking steps in compliance of the direction passed by the Court, accordingly, this Bench refrains from exercising jurisdiction in the matter.

It will be open for the petitioners to make necessary submission before the Hon'ble Bench taking up the contempt matter.

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.

(Amrita Sinha, J.)