

14.08.2023
Sl. No.603(ML)
srm

C.O. No. 2341 of 2023
Sree Siddhidata Enterprise
Versus
The South Dum Dum Municipality

Mr. Sabyasachi Mukherjee,
Mr. Bibek Dey,
Ms. Debarati Choudhury,
Syed N. Ahmed

...for the Petitioner.

The revisional application has been filed by the person responsible for an unauthorised construction.

The petitioner is aggrieved by an order dated June 28, 2023 passed by the learned District Judge, Fast Track (3rd Court) at Barasat, North 24-Parganas. The learned District Judge refused to stay the demolition order passed by the South Dum Dum Municipality. Such order was passed in Miscellaneous Appeal No.86 of 2023.

The learned court observed that the documents of the South Dum Dum Municipality which were part of the records, would indicate that there was no palpable irregularity in the act of the municipality in directing demolition. Accordingly, the prayer for ad interim injunction for stay of the operation of the letter dated June 15, 2023 issued by the South Dum Dum

Municipality was refused, thereby upholding the order of the learned trial judge.

By the letter dated June 15, 2023, the Executive Officer, South Dum Dum Municipality communicated the order of the High Court and asked the petitioner to demolish the unauthorised structure on the basis of the order passed by the High Court.

It appears that no municipal appeal was filed against the order of demolition passed by the Board of Administrators. Such fact is available from the decision of the Hon'ble Division Bench in a mandamus appeal between the same parties with regard to the same demolition proceedings. The Hon'ble Division Bench observed that the demolition order dated October 13, 2020 had not been challenged by the petitioner by preferring a statutory appeal. Thus, the order passed by the learned Single Judge in a writ petition directing demolition, was upheld by the Hon'ble Division Bench. Thereafter, when the authorities issued notices for demolition in compliance with the order of the High Court, the petitioner preferred two municipal appeals. Such appeals were themselves misconceived in my, *prima facie*, view as they were appeals against the letters issued by the Executive Officer asking the petitioner to demolish the structure as directed by the High

Court. They were not appeals arising out of the demolition order.

In any event, the learned lower appellate court did not find any reason to pass orders of stay of demolition on consideration of the facts and the documents available. This Court does not find any illegality in the order impugned

The revisional application is, thus, dismissed.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)