

Item No.08

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.08.2023
Ct-24
AGM

WPA 18127 of 2023

Arghya Pal & Anr.

v.

The State of West Bengal & Ors.

Mr. S. T. Mina

Ms. Priyanka Das

... for the petitioners.

Mr. Avijit Sarkar

Ms. Srijini Mukherjee

... for the State.

Mr. Raghunath Chakraborty

Me. Apzal Ansari

... For the Maheshtala Municipality.

The petitioners are aggrieved by the order dated 13th July, 2023 directing the petitioners to vacate the two feet land as demarcated by the Block Land and Land Reforms Officer by removing the boundary wall so that the passage retains its original 12 feet width within 21 days from the date of the order, failing which the Municipality would take steps for demolishing the unauthorized construction and realize the demolition costs from the petitioners.

Submission of the petitioners is that no hearing was given by the Board of Councillors prior to passing the demolition order.

It appears that a spot inspection for the purpose of demarcation of the subject plot was conducted upon notice.

There is nothing on record to suggest that the spot inspection report was circulated to the parties and thereafter an opportunity of hearing was given prior to passing the impugned order of demolition.

The petitioners admit that spot inspection for demarcating the land in question was conducted upon notice but thereafter opportunity of hearing was not granted to the petitioners.

Learned advocate of the Municipality does not have any document to suggest that an opportunity of hearing was given to the petitioners prior to passing the impugned order of demolition.

In view of the above, the Court is of the opinion that the order impugned suffers from the vice of non compliance of the principles of natural justice.

The impugned order of demolition is, accordingly, set aside.

The Board of Councillors, Maheshtala Municipality is directed to issue fresh notice affording opportunity of hearing to the petitioners and all other necessary parties at the earliest but positively within a period of eight weeks from the date of communication of this order.

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.)