

08.08.2023.
Court No.24
Item No. 03
pk

W.P.A. No. 18455 of 2023
Sri Arup Bhowmick and others
Versus
Barasat Municipality and others

Mr. Tapash Kumar Bhattacharya,
Mr. Aviroop Bhattacharya
...For the petitioners.

Mr. Supriyo Roy Chowdhury,
Mr. Syed Nasim Acjaz,
Mr. Shankar Ghosh
... For the Barasat Municipality.

Affidavit of service filed in Court be kept with the records.

The writ petitioners have been held to have made unauthorised construction over the municipal drain. Barasat Municipality passed an order of demolition, which is challenged in the present writ petition by the writ petitioners on the ground that the said order was passed without affording any opportunity of hearing to the petitioners.

The learned advocate representing the municipality submits, upon instruction that, as the municipal drain was blocked by the petitioners the Municipality was constrained to pass such order.

The Municipality has agreed to afford opportunity of hearing to the petitioners prior to implementing the order of demolition.

Learned advocate for the petitioners submits that the construction in question was made upon their private land.

Without going into the merit of the allegations made by the petitioners regarding ownership of the land in question, the Municipality is directed to afford opportunity of hearing to the petitioners and thereafter take a decision with regard to the construction in question.

Decision shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

The order of demolition being passed without complying with the principles of natural justice is set aside and quashed.

The Municipality, however, is restrained from deciding ownership of the land in question and will decide the issue of unauthorized construction on the basis of the records maintained by the Municipality.

The writ petition stands disposed of.

Instructions provided by the Barasat Municipality be retained with the records.

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

(Amrita Sinha, J.)