

13.02.2023

sl.no.32

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In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

W.P.A. 18957 of 2022

Sri Raj Narayan Rai

Vs.

The Kamarhati Municipality & Ors.

Mr. Debrup Chowdhury

... for the petitioner

Mr. Soumya Banerjee

Ms. Sucheta Banerjee

... for Kamarhati Municipality

The petitioner complains of illegal and unauthorised construction at 6/56, M.M. Feeder Road, Belghoria under jurisdiction of Kamarhati Municipality.

The petitioner was informed under the Right to Information Act that a proceeding under Sections 218 and 220 of the West Bengal Municipal Act, 1993 was initiated.

According to the petitioner, no steps have been taken for demolition of the unauthorised construction till date.

None represents the private respondent. Affidavit of service filed in Court is taken on record.

Learned Advocate representing the Kamarhati Municipality submits that the proceedings under the West Bengal Municipal Act could not be followed up in view of the order of status quo passed by the learned Court below in Misc. Appeal being 132 of 2019 pending

before the learned Additional District Judge, 1st Court, Barasat, North 24-Parganas.

It appears that the learned Court below, by order dated 22nd December, 2021, clarified that the Municipality not being a party to the proceeding may take necessary steps in accordance with law against unlawful and illegal construction, if any, over the suit property.

The learned Court below appears to have clearly clarified that the order of status quo will not stand in the way of the Municipality to take steps against any unauthorised construction.

In the present case, proceeding under Sections 218 and 220 of the West Bengal Municipal Act, 1993 is pending.

The Municipality is, accordingly, directed to proceed in accordance with law for conclusion of the aforesaid proceeding after giving reasonable opportunity of hearing to all necessary parties and by passing a final order in the matter. The Municipality shall ensure that the demolition proceeding is concluded at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The writ petition is 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.)