

18
13.12.2023
d.p.

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

W.P.A. 20483 of 2023

**Shri Tapan Kumar Dutta
-versus
The State of West Bengal & Ors.**

**Ms. Madhumita Patra.
...For the Petitioner.**

**Mr. R. Chatterjee,
Mr. Arijit Dey.
...For the Municipality.**

Affidavits-of-service filed in Court today are taken on record.

None appears on behalf of the private respondent.

The order of demolition passed under Section 218(1) of the West Bengal Municipal Act, 1993 in the year 2015 communicated to the parties in January 2016 is yet to be implemented.

The petitioner seeks implementation of the same.

The Municipality submits that it is the duty and responsibility of the owner to act in accordance with the order passed under Section 218(1) of the Act. The Municipality is not obliged to execute the said order of demolition.

The Municipality intends to rely upon proposition of law and decision passed by the coordinate Bench of this Court in support of the aforesaid submission.

The Court is not convinced with the submission of the Municipality. When the order of demolition has been passed, it is the duty of the Municipality to ensure that the same is acted upon. It is the further duty of the Municipality to ensure that construction is made in accordance with law and not otherwise.

It appears that the Municipality failed to notice the unauthorized construction at the first instance and thereafter when the same was brought to the notice of the Municipality on the complaint made by the predecessor-in-interest of the petitioner, the order of demolition has been passed.

The Municipality ought to execute the same.

It will be open for the Municipality to recover the cost of demolition from the person who was duty bound to comply the same.

The Municipality is directed to take steps in the matter and ensure that the order of demolition is implemented at the earliest. It will be open for the Municipality to seek police help at the time of demolition.

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.)