

01. 27.07.2023  
bd. Ct.15

W.P.A. 22064 of 2017

Sri Ramnarayan Ray

-vs-

The Uttarpara Kotrang Municipality & Ors.

Mr. Ayan Banerjee

Mr. Soumo Chowdhury ... for the petitioner.

Mr. Siddhartha Banerjee ... for the Uttarpara  
Kotrang Municipality.

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioner and Uttarpara Kotrang Municipality. However, private respondents are not represented today.

It appears that matter was taken up by this Court on 17<sup>th</sup> May, 2023 and on finding that municipality and private respondents were not represented this Court directed the learned advocate for the petitioner to serve notice upon the respondents by fixing the matter on subsequent date. Subsequently matter was taken up on 14<sup>th</sup> June, 2023 when respondent nos. 10 to 18 as well as municipality were represented. Learned advocate for the respondent nos. 10 to 18 prayed for accommodation which was granted thereby matter was fixed for further consideration on 27<sup>th</sup> June, 2023. Subsequently matter was taken up on 20<sup>th</sup> July, 2023 when again accommodation was prayed for on behalf of respondent nos. 10 to 18 and the same was granted and the matter was fixed for hearing today, 27<sup>th</sup> July, 2023.

Today at the time of hearing this Court finds

that no one is representing the private respondents therefore the Court has decided to proceed with the matter on the basis of submissions made on behalf of petitioner and Uttarpura Kotrang Municipality.

Mr. Ayan Banerjee, learned advocate, representing the petitioner submits that the writ petition was instituted with the prayer for implementation of the order of demolition dated 8<sup>th</sup> September, 2016. On drawing attention of this Court to pages 15 and 16 of the affidavit-in-opposition affirmed on behalf of the municipality it has been submitted that demolition is required to be carried out following the sketch map prepared by the concerned authority of the Municipality which is at page 16 of the said affidavit-in-opposition. It has further been submitted that in terms of section 218(3) of the West Bengal Municipal Act, 1993 an appeal was preferred before the Civil Judge,(Junior Division) 1<sup>st</sup> Court, Serampore, Hooghly, but the same was dismissed vide order dated 8<sup>th</sup> December, 2021. In the appeal the order of demolition dated 8<sup>th</sup> September, 2016 passed by the Municipality was questioned but according to the petitioner in view of the order dated 8<sup>th</sup> December, 2021 of the Civil Court the appeal failed. It has also been brought to the notice of this Court that the private respondents made an attempt to get an order by instituting Misc. Appeal being No. 11 of 2020 but the same was also dismissed by the Additional District Judge, Serampore, Hooghly. The copies of the orders passed by the Civil Court in connection with the lis of the private respondents are produced before this Court which are taken on record.

Learned advocate representing Uttarpara Kotrang Municipality submits that perhaps private respondents have filed another appeal before the Civil Court therefore has prayed for adjourning the hearing of this writ petition for sometime and in the same breath it has also been submitted that in the event direction is given upon the Municipality to demolish the structure in question in terms of the demolition order dated 8<sup>th</sup> September, 2016 direction may be given upon the concerned police authorities for providing assistance.

Having considered the submissions made on behalf of the petitioner and the Uttarpara Kotrang Municipality and taking note of the relevant documents available on record including the orders passed by the Civil Courts dated 8<sup>th</sup> December, 2021 and 4<sup>th</sup> May, 2022 it transpires that steps were taken by the private respondents to get a favourable order upon preferring an appeal in terms of section 218 (3) but the civil court dismissed the appeal vide order dated 8<sup>th</sup> December, 2021. The effort made on behalf of private respondents to obtain an order by filing Miscellaneous Appeal being No. 11 of 2020, but the same was dismissed.

This Court fails to understand how after dismissal of the appeal vide order dated 8<sup>th</sup> December, 2021 another appeal can be preferred under section 218(3). However, no specific submission has been made in this regard on behalf of the private respondents. This Court has given enough opportunity to the private respondents to be

represented but they have chosen not to appear before this Court today.

In view of the aforesaid facts as discussed above it appears that order of demolition dated 8<sup>th</sup> September, 2016 passed by the Chairman, Uttarpara Kotrang Municipality is subsisting and it needs to be implemented as prayed for by the petitioner.

Accordingly, the concerned authority of Uttarpara Kotrang Municipality is directed to demolish the unauthorised constructions made by the private respondents at 236, New Station Road, Kotrang, Hooghly, under ward no. 7 within a period of six weeks from the date of communication of this order.

Leave is granted to the concerned authority of Uttarpara Kotrang Municipality to approach the concerned police authority including Inspector-in-Charge of Uttarpara Police Station for providing police assistance in order to facilitate demolition work. If the concerned police authorities are approached by the said municipality they are directed to provide adequate number of police personnel for vacating the premises in question, if necessary, in order to assist the concerned authorities of Uttarpara Kotrang Municipality to complete demolition work.

With the aforesaid direction the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**