

04.09.2023
Item No.22
Court No.6.
S. De

**R.V.W. 79 of 2023
in
M.A.T. 1564 of 2022
With
I.A. No. CAN/2/2023**

**Manju Mondal & Anr.
Vs
The State of West Bengal & Ors.**

Mr. Subir Sanyal,
Mr. Balai Lal Sahoo,
...for the appellants.
Ms. Pampa Dey (Dhabal),
Mr. Nikhil Kr. Gupta,
Mr. Krishna Deo Das,
..for the respondent no.9.
Mr. Raghu Nath Chakraborty,
Mr. M. Ahmed, ...for the Municipality.

Mr. S. Chakraborty,
Mr. Chandan Mondal, ...for the State.

Read order dated June 30, 2023. In that order we had recorded that prima facie, learned counsel for the appellants/review applicants seems to be right in submitting that an appeal under Section 218(3) of the West Bengal Municipal Act, 1993, lies from an order of the Board of Councillors and not from an order of the Chairman of the Municipality. In fact, the power to issue a demolition order has been given to the Board of Councillors and not to the Chairman of the Municipality. We have held in other cases that a demolition order issued by the Chairman of the

Municipality is a nullity and has no effect in the eye of law.

In the present case, undisputedly the demolition order was passed by the Chairman and not by the Board of Councillors. Hence, the order is *non est* in the eye of law and is set aside. The order under appeal is also set aside. The review application is, thus, allowed.

Learned advocate for the private respondent no.9 says that direction should be issued on the Municipality to initiate fresh proceedings against the review applicants in respect of the impugned construction. We are not inclined to pass any such direction. The Municipality is left to its wisdom to take appropriate steps in accordance with law.

In the event the Municipality initiates fresh action, the concerned Block Land and Land Reforms Officer shall extend all co-operation

R.V.W. 79 of 2023 is disposed of along with the application being I.A. No. CAN/2/2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)