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In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

C.P.A.N. 1034 of 2022
in
W.P.A. 16625 of 2019

Sibdas Bhattacharyya
Vs.
Kasturi Chowdhury

Mr. Tushar Kanti Mukherjee
... for the petitioner

Mr. N. C. Bihani
Mrs. Papiya Banerjee Bihani
Mr. Soumyajit Ghosh
... For the S.D.D.M.

This Court passed order directing the Chairman, South Dum Dum Municipality to take steps in accordance with law for implementing the order of demolition of the construction made at the behest of the private respondent in the writ petition as the Municipality was of the opinion that the said construction was an unauthorised one.

The private respondent in the writ petition filed a separate writ petition seeking direction upon the Municipality for consideration of his prayer for regularization of the construction made.

The Municipality considered the prayer of both the parties, that is, the petitioner and the private respondent simultaneously on 5th August, 2022 and passed order by permitting the private respondent in the writ petition to

retain the construction of the two-storied building of approximately 212 sq.ft. in each floor.

The petitioner insists upon demolition of the said construction.

Reasoned order has been passed by the Chairperson, South Dum Dum Municipality on 5th August, 2022 and communicated to the petitioner by letter dated 28th December, 2022.

Petitioner submits that the aforesaid communication was made only after filing of the contempt application.

The Court is of the opinion that a formal order has been passed by the Chairperson of the Municipality allowing the private respondent to retain the construction in question. If the petitioner is aggrieved by the same, it will be open for the petitioner to challenge the same before the appropriate forum.

No order can be passed relying on the reasoned order dated 5th August, 2021 in the present contempt application.

Accordingly, the contempt application 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.)