

Item No.6

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

18.12.2023
Ct-24

WPA 28183 of 2023
Ranjit Ghosh

v.

The State of West Bengal & Ors.

Ms. Pampa Dey(Dhabal)
... for the petitioner.

Mr. Raghunath Chakraborty
Mr. Amrita De
... for the Municipality.

Mr. Arindam Chattopadhyay
Mr. Lipika Chatterjee
... for the State.

The petitioner is aggrieved by the communication dated December 15, 2023 issued by the Chairman, Maheshtala Municipality to implement the order of demolition passed by the Board of Councillors of the Municipality on June 23, 2023.

It appears from the order of demolition that all the parties were heard and the Board of Councillors concluded that a two storied construction has been made in the un-demarcated joint property without obtaining any sanctioned plan.

A stop work notice was issued in March 2021 but the person responsible continued with the construction work defying the stop work notice.

The Board of Councillors relying upon Section 218 of the West Bengal Municipal Act, 1993 directed the petitioner to demolish the unauthorized two storied

construction within thirty days of receipt of the order failing which the Municipality will demolish the same and realize the cost of demolition from the person responsible.

Time to demolish the unauthorized construction has expired. The Chairman of the Municipality, accordingly, served notice to demolish the same and to realize the cost of demolition in accordance with Section 218(1) of the Act.

The petitioner contends that the specification of the structure which has been held to be unauthorized is not mentioned. The order of demolition was passed by the Chairman of the Municipality and not by the Board of Councillors as required in law.

I have heard the submissions made on behalf of the parties and perused the materials on record.

It appears that prior to passing the order of demolition, the Board of Councillors issued notice to all the parties to appear for a hearing. The parties along with their learned advocates were present in the hearing.

The Board of Councillors perused the field enquiry report and concluded that the construction of two storied building without a sanctioned plan is unauthorized and, accordingly, passed the order of demolition.

Had the petitioner been aggrieved by the order of demolition, then the petitioner ought to have approached the appellate authority for relief. Instead, the petitioner chose to sit tight. After the notice was issued by the Chairman of the Municipality for implementing the order of demolition, the petitioner rushed to this Court to

challenge the order of demolition. The same is impermissible. The order of demolition appears to have been passed by the Board of Councillors of the Municipality upon hearing all the parties.

The Court does not find any apparent infirmity with the order of demolition which has attained finality by now and is liable to be implemented.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Affidavit-of-service filed in Court today is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)