

12 23.02.2023
rkd Ct.15

W.P.A. 31319 of 2014
(IA NO: CAN 2/2016 (Old No: CAN 4257/2016))

Smt. Subhra Chakraborty
-vs-
State of West Bengal & Ors.

Mr. Achyut Basu,
Ms. Punan Basu,
Mr. Somen Bose,
Mr. Srikumar Chakraborty

....for the petitioner.

Mr. Swapan Kumar Mazumdar,
Mr. Saptarshi Mazumdar

....for the Nabadwip Municipality.

Mr. Bhaskar Prasad Baisya,
Mr. Tarak Karan

....for the State.

Affidavit-of-service filed in Court is taken on record. In spite of service of notice no one appears for the respondent no.6.

In the writ petition order of demolition dated 14th November, 2014 issued by the Chairman, Nabadwip Municipality is under challenge.

On behalf of the petitioner it has been submitted by Ms. Basu, learned advocate that on two counts challenge has been thrown to the order of demolition dated 14th November, 2014 – first one is there is a direction by the coordinate Bench vide order dated 10th July, 2014 while disposing of the

writ petition being WPA 18487 of 2014 to demolish the portion of the building which were constructed in deviation of sanctioned building plan but Navadwip Municipality in its turn has decided to demolish the entire building as it emanates from the order dated 14th November, 2014; second point which has been urged before this Court is failure on the part of the municipality to complete the proceeding in terms of Section 218 of the West Bengal Municipal Act, 1993.

It has been submitted that no opportunity of hearing was granted to the petitioner before passing impugned order of demolition dated 14th November, 2014.

Today the writ petition is heard after exchanging affidavits.

Municipality is represented by Mr. Mazumdar, learned advocate who has made an attempt to defend the decision of the municipality to demolish the building of the petitioner as contained in the order dated 14th November, 2014.

This Court having heard the learned advocates representing the parties finds that the municipality has not been able to satisfy the query of the Court on the following points:

- i) The coordinate Bench vide order

dated 10th July, 2014 directed the municipality to demolish the portions of the building which were constructed in deviation of the sanctioned building plan but the municipality by issuing demolition order dated 14th November, 2014 decided to demolish the entire building ;

- ii) Why petitioner was not granted opportunity of hearing before conclusion of proceeding under Section 218.

In view of defects persists as indicated hereinabove the order of demolition dated 14th November, 2014 stands set aside.

However, this order shall not preclude Nabadwip Municipality to initiate proceeding afresh in terms of Section 218.

Accordingly, the writ petition stands disposed of.

Application, if any pending, also stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this

order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)