

25.01.2024
Court No. 13
Item Nos. 2
pk

WPA 1898 of 2024

**Jyotirmoy Debnath
Vs.
State of West Bengal and Ors.**

Mr. Abhrajit Mitra, Ld. Sr. Advocate
Ms. Pritha Basu,
Ms. Susrea Mitra,
Mr. D. Chakraborty

.... For the Petitioner.

Mr. Tapan Kumar Mukherjee,
Ms. Tuli Sinha

.... For the State.

Mr. Arijit Dey

... For the Baranagar Municipality.

Mr. Raghunath Chakraborty,
Ms. Amrita De

... For the respondent no. 6.

Mr. Soumya Roy Chowdhury,
Mr. Dipayan Dan

... For the proforma respondent.

1. By an order dated 19.12.2023 passed in FMA 4716 of 2015 (The Bengal Fodder Mills Private Limited Vs. State of West Bengal and others) a Division Bench of this Court directed the Baranagar Municipality to demolish unauthorised construction outside the sanction plan. The writ petitioner was party to such appeal. The sanctioned plan has been annexed to this writ petition.

2. The writ petition has been filed on a Specious Plea that notice of demolition dated 16.01.2024 does not specify which portion of the building are unauthorised

and what is proposed to be demolished by the Municipality.

3. This Court is of the view that the writ petition is in gross abuse of process of law. The petitioner having annexed the sanctioned plan is deemed to have been clearly aware of the unauthorised portions of the building.

4. The proceedings against the Baranagar Municipality under the provisions of the Bengal Municipal Act, have seen two stages of litigation earlier before a Single and Division Bench of this Court in which the petitioner participated.

5. It is, therefore difficult for this Court to even conceive of an argument that the petitioner needs specific notice of any unauthorised portions of the constructions that the Baranagar Municipality is out to demolish.

6. The Municipality is only acting in terms of the order of the Division Bench. It would be grossly inappropriate for a Single Bench to clarify, narrow down orders of the Division Bench under which a statutory authority is taking steps.

7. Reliance is placed on the decision of **Laddu Gopal Bajoria and another Vs. Kolkata Municipal Corporation and others** reported in **2006 SCC OnLine Cal 258** and unreported decision of **Sona Karar and another Vs. The Howrah Municipal Corporation and**

others dated 28.03.2022 passed in WPA 3982 of 2022.

The said decisions would not have any application in the facts of the case.

8. In the above circumstances, this Court is of the view that the writ petition cannot be entertained and is liable to be dismissed with costs assessed at Rs.25,000/- payable by the writ petitioner to the Baranagar Municipal Corporation.

9. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)