

Item No.4

13.02.2024  
Ct-24

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

WPA 2587 of 2024  
Sk. Md. Salim @ Mahammad Selim  
v.  
The State of West Bengal & Ors.

Mr. Sarwar Jahan  
Mr. Sayantan Hazra  
Mr. Maidul Islam Kayal  
Mr. Kaustav Ray  
... for the petitioner.

Mr. Gobinda Ch. Bandyopadhyay  
... for the Municipality.

Mr. K.J. Yusuf  
Mr. Parikshit Goswami  
... for the State respondents.

The petitioner is aggrieved by the notice issued by the Uluberia Municipality whereby the provision of Section 223 has been invoked by the Uluberia Municipality directing the petitioner to demolish the construction within fifteen days, failing which the Municipality will take steps for demolition of the same.

The impugned notice dated January 16, 2024 appears to be extremely vague and cryptic. Details of the subject construction are not mentioned in the impugned notice. Neither the plot number nor the boundaries of the subject structure directed to be demolished is mentioned in the impugned notice.

Learned advocate representing the Municipality submits that the petitioner is guilty of encroaching the PDW land for raising construction.

A hand drawn sketch along with the instruction forwarded by the BL & LRO, Uluberia-I has been placed before this Court. It appears therefrom that a list of encroachers has been annexed where the name of the petitioner appears. The plot number mentioned in the hand written sketch is 661. There are two other separate plot numbers indicated in the hand drawn sketch - 689 and 690. The petitioner claims to be the owner of the plot no. 689.

Section 223 of the West Bengal Municipal Act, 1993 deals with the power of the Municipalities to order demolition of buildings, dangerous, ruinous or unfit for human habitation. There is nothing on record to suggest that the structure that has been directed to be demolished is either dangerous, ruinous or unfit for human habitation.

In view of the above, the order impugned dated January 16, 2024 is liable to be set aside and is, accordingly, set aside and quashed.

It will be open for the Municipality to take steps to deal with any unauthorized construction made at the behest of the petitioner in accordance with law after giving reasonable opportunity of hearing to all the necessary parties.

The writ petition accordingly stands disposed of.

Instruction forwarded by the BL & LRO, Uluberia-I dated January 24, 2024 be retained with the records.

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

Sh

**(Amrita Sinha, J.)**