

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 24917 of 2023

**Satya Ranjan Ghosh
-versus
The State of West Bengal & Ors.**

**Mr. Sounak Bhattacharya.
Mr. Sounak Mondal.
Mr. Abhirup Halder.
... For the petitioner.**

**Mr. Raghunath Chakraborty.
Mr. Suman Banerjee.
... for the Respondent no. 7.**

**Mr. Suman Basu.
Ms. Debanwita Pramanik.
... For the respondent nos. 2 and 3.**

The petitioner prays for implementation of the order passed by the Chandannagore Municipal Corporation on 19th April, 2022 directing removal of the illegal construction within thirty days from the receipt of the order.

Learned advocate representing the private respondent submits that an appeal was preferred before the Mayor of the Corporation against the order of demolition dated 19th April, 2022.

It has been submitted that a Title Suit has been filed by the petitioner before the learned Civil Court with the same prayer seeking demolition of the unauthorised construction. The instant writ petition is hit by the principles of *res judicata* and the same is liable to be dismissed.

Learned advocate representing the Corporation submits, upon instruction that, steps will be taken for demolition of the unauthorised construction.

According to the provision of law, Mayor is not the competent appellate authority to decide the appeal against the order of demolition passed by the Corporation. Appeal filed before an authority without jurisdiction is *non est* in the eye of law and the same ought not to stand in the way of the Corporation to implement the order of demolition.

As regards the Title Suit that is pending before the learned Civil Court, it appears that the learned Court clearly recorded that the fact of illegal construction is being looked after by the Municipal authorities who are free to take necessary action according to law.

The Chandannagore Municipal Corporation though passed an order of demolition on 19th April, 2022 but, it appears that, thereafter the Corporation did not take any step for implementation of the same. The Corporation ought to have taken prompt steps for implementing the said order otherwise the very purpose of passing the order of demolition gets frustrated and the unauthorised construction remains standing.

In view of the above, the instant writ petition is disposed of by directing the Chandannagore Municipal Corporation to take prompt necessary steps for implementing the order dated 19th April, 2022 at the earliest but positively within a period of six weeks from the date of communication of this order.

The Inspector-in-Charge, Chandannagore Police Station is directed to render all necessary cooperation and assistance to the men and agents of

the Chandannagore Municipal Corporation at the time of implementing the order of demolition.

The writ petition 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.)