

20.11.2024
Item No.16
Ct. No.26
CHC
(disposed of)

MAT 2068 of 2024
IA NO: CAN/1/2024

Sk. Alomgir
Vs.
The State of West Bengal & ors.

Sk. Samiul Haque, Advocate
Md. Shamimuddin, Advocate
Mr. Sandipan Das, Advocate
....for the appellant

Mr. Sailendra Sekhar Bayerd, Advocate
....for the State

Mr. Kingsuk Mondal, Advocate
....for the respondent no.9

1. Appeal is at the behest of a private respondent in a writ petition.
2. Appeal is directed against the order dated September 11, 2024 passed in W.P.A. 12008 of 2024.
3. By the impugned order, learned Single Judge noted that, there subsisted an order of demolition dated October 5, 2023 passed by the Municipality. In such circumstances, learned Single Judge directed the Municipality to execute the order of demolition dated October 5, 2023 in accordance with law as expeditiously as possible.

4. Learned advocate appearing for the appellant submits that, the impugned order of demolition dated October 5, 2023 was passed by the Chairman of the Maheshtala Municipality and not by the Board of Councillors as is statutorily required. He submits that, the Municipality did not undertake any inspection of the property and passed the order of demolition mechanically.
5. State and the private respondent are represented.
6. Learned advocate appearing for the private respondent submits that, the Board of Councillors of the Maheshtala Municipality passed the order dated October 5, 2023 and the same will appear from the contents of such order. Moreover, according to him, the impugned order is appealable.
7. Maheshtala Municipality was constituted under the provisions of the West Bengal Municipal Act, 1993.
8. The Act of 1993 contains provisions for appeal against an order of demolition. Such appeal provision is under Section 218 thereof. Appellant before us did not prefer any appeal against the order of demolition. Appellant however, filed a writ petition assailing the order of demolition on the selfsame ground as canvassed in the present appeal.
9. We find from the writing dated October 5, 2023 that, the same was issued by the Chairman of Maheshtala Municipality.

10. To us, the writing dated October 5, 2023 is a communication of the decision of the Board of Councillors, Maheshtala Municipality and was issued by the Chairman of such Municipality.
11. The contents of the writing dated October 5, 2023 would show that, there was stop work notice issued to the appellant before us on October 17, 2022. Moreover, Municipality acted on the basis of a complaint received from the writ petitioner. The Board of Councillors of the Municipality invited the complainant as well as the appellant before us for hearing of the matter. Opportunities to appear before the Board of Councillors were provided to the appellant. Appellant did not appear before the Board of Councillors.
12. Board of Councillors, therefore, found the subject premises an unauthorized construction and directed demolition thereof.
13. Nothing is placed on record before us to suggest that, construction made by the appellant was on the basis of any plan sanctioned by the Municipality.
14. Learned Single Judge directed implementation of the order of demolition passed by the Board of Councillors of the Municipality.
15. In such circumstances, we find no merit in the present appeal.

16. M.A.T. 2068 of 2024 along with all connected applications are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)