

21.05.2025
Sl. No. 19
Ct No. 3
SG

WPA 7462 of 2025

**Sankar Prasad Sarkar
Vs
The State of West Bengal & Ors.**

Mr. Surendra Kumar Sharma.
...for the petitioner

Mr. Amales Ray, Sr. Adv.
Ms. Mousumi Bhowal,
Mr. Ishan Bhattacharya.
...for municipality

Mr. Susanta Kr. Mukherjee,
Mr. S. Chakraborty.
...for the State

1. The petitioner has preferred the present writ petition challenging the order dated 28.02.2025 passed by the Chairman, Board of Councillor, South Dum Dum Municipality whereby the petitioner was directed to demolish the unauthorized construction measuring 42.67 square meter existing on the third floor of the premises situated at holding no. 240 (New), 390 (Old) Dum Dum Cossipore Road, Kolkata.

2. The petitioner contends that by virtue of a development agreement executed in the year 1996 Amulya Ranjan Nag, the erstwhile owner of the said premises, the petitioner became entitled to the ownership of a portion of the building to be constructed thereon. The said landowner also executed a registered power of attorney in favour of the petitioner. Based on these documents the petitioner

obtained sanction for construction of a three storied building on 03.09.1997.

3. On 26.11.2024 the petitioner received a notice from respondent-municipality stating that an inquiry has been initiated pursuant to a complaint alleging unauthorized construction. After providing an opportunity of hearing to the petitioner, the Board of Councillor passed the impugned self-demolition notice dated 28.02.2025.

4. Learned Counsel for the petitioner submits that the impugned order is vitiated as no copy of inspection report was furnished to the petitioner. It is further submitted that the Councillor of Ward No. 9 within whose jurisdiction the subject premises fall was not present during the proceeding. Learned Counsel for the petitioner further contends that the present order has not been passed by the Board of Councillor and is in violation of Section 218 of the West Bengal Municipal Act, 1993. Learned Counsel for the petitioner further states that there is no unauthorized construction in the premises and thus the impugned order is liable to be set aside.

5. This Court has heard the arguments advanced by the Counsel for the parties and has perused the materials on record.

6. From the record it is evident that upon the noticing the alleged unauthorized construction, the respondent-municipality conducted a joint inspection after issuing due notice to the petitioner. The petitioner was also afforded an opportunity of hearing. A perusal of the impugned order reveals that the learned Advocate appearing for the petitioner admitted the existence of unauthorized construction to the extent of 42.67 square meter on the fourth floor.

7. In view of the above this Court is of the considered opinion that the order passed by the Board of Councillor suffers from no legal infirmities or procedural irregularities warranting interference. Consequently, this Court declines to interfere to exercise its discretionary jurisdiction under Article 226 of the Constitution of India.

8. Accordingly, the present writ petition is dismissed.

9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)