

**03-06-
2025**
Item
No.36
Subrata
Bhattacharyy
a
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.12225 of 2025
Prakash Kumar Singh

-vs-
Kamarhati Municipality & Ors.

Mr. Sabyasachi Chatterjee
Mr. Tanmoy Mukherjee
Mr. Pratim Priya Dasgupta ...for the petitioner

Mr. Saptangsu Basu, sr. adv.
Mr. Avik Ghatak
Mr. Supriyo Majumder
Mr. Soumen Chatterjee
Mr. Afreen Begum
Mr. S. Das
Mr. S. De Dhara
Mr. A. Ghosh ...for the respondent no.7

Mr. Sankha Subhra Ray ...for respondents no. 1-5

Mr. Swapan Banerjee
Mr. Diptendu Narayan Banerjee
Ms. Paramita Pal
Ms. Indrani Nandi ...for the State

The present writ petition has been preferred challenging the legality of the show cause notice dated May 29, 2025, issued by the Chairman of Kamarhati Municipality, notifying the interested parties in respect of the premises bearing No. 1, located at Pratap Rudra Lane, Kolkata-57, that, in terms of the order passed by a Coordinate Bench of this Court on May 19, 2025, the demolition of the entire premises would be undertaken on June 13, 2025.

Mr. Chatterjee, learned Advocate appearing for the petitioner, submits that the petitioner is the occupier of the

subject premises and that the municipality, without affording any opportunity of hearing, intends to demolish the building invoking the provisions of Section 218 of the West Bengal Municipal Act, 1993. He further submits that the municipality's proposed demolition is illegal, as it has not taken into account the hardship and inconvenience that the petitioner, as the occupier, may suffer if the demolition is carried out. Accordingly, he prays for the immediate intervention of this Hon'ble Court to restrain the municipality from proceeding with the demolition work.

Mr. Basu, learned Senior Advocate appearing for the private respondent No. 7, has raised the issue of maintainability of the writ petition. He submits that the petitioner has no legal right or interest in respect of the subject premises and, therefore, has no locus standi to seek an order restraining the Municipality from executing the demolition work in compliance with the order passed by a Coordinate Bench of this Court.

In reply, Mr. Chatterjee submits that the Coordinate Bench merely directed the Municipality to carry out the demolition work in accordance with law. He contends that since no opportunity of hearing was afforded to the petitioner prior to the commencement of the demolition, the Municipality's proposed action to demolish the building is illegal.

Mr. Swapan Banerjee, learned Additional Government Pleader, submits that the petitioner has filed this writ petition without giving any prior intimation to the office of the

Government Pleader and without serving a copy of the petition. In view of this, Mr. Banerjee is requested to appear on behalf of the State in this matter. The appointment of Mr. Banerjee, along with a junior of his choice, is hereby regularized.

Heard learned counsel for the respective parties and perused the materials on record.

Record reveals that one Ripon Mondal, private respondent No. 7, filed a writ petition being WPA No. 21459 of 2024 before a Coordinate Bench of this Court, which was heard on 19.05.2025. During the hearing, the Bench was apprised that the building in question was constructed without any sanctioned building plan from the Municipality. The Bench noted that the construction was made on 'Danga' land and that the Municipality had concluded the construction to be illegal. Consequently, the Municipality sought four weeks' time to complete the demolition work.

Taking note of these facts, the Bench scheduled the next hearing of the matter on June 23, 2025, and directed the Municipality to file a report by way of affidavit, indicating the steps proposed to be taken for the demolition of the said unauthorized construction in accordance with law. The notice under challenge in this writ petition indicates that the Municipality has undertaken the demolition process in compliance with the order passed by the Coordinate Bench.

Therefore, restraining the Municipality, which is acting pursuant to an order passed by a Coordinate Bench of this Court, from undertaking the demolition process would amount

to sitting in appeal over the decision of the Coordinate Bench, which is impermissible.

Thus, in the aforesaid conspectus, I am not inclined to interfere with the writ petition. Accordingly, the writ petition is dismissed, without any order as to costs.

However, this order shall not preclude the petitioner from approaching the appropriate forum in accordance with law, if so advised.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Partha Sarathi Chatterjee, J]