

10. 16.09.2025
Court No.06.

(Pritam)

**CO 2553 of 2025
with
CAN 1 of 2025**

Tirupati Developer Partnership & Ors.

-Vs.-

Dum Dum Municipality & Ors.

Mr. Saptanshu Basu, Sr. Adv.,
Mr. Prosenjit Mukherjee,
Mr. Arghya Kamal Das,
Ms. Babita Pramanik.

....for the petitioners.

Mr. Anjan Bhattacharya,
Ms. Anita Shaw,
Mr. Bibek Dey,
Ms. Seema Thakur.

.....for the opposite party nos.6 to 11.

Mr. A. Ray, Sr. Adv.,
Ms. Moushumi Bhowal,
Mr. Amlan Gupta.

....for the Dum Dum Municipality.

1. Affidavit-of-service filed in court today is taken on record.

2. This application under Article 227 of the Constitution of India is at the instance of the Developer of the impugned construction and is directed against the judgment and order dated June 24, 2025 passed by the learned Civil Judge, (Junior Division), Bidhannagar, North 24 Parganas in Municipal Appeal Case No.4/2024.

3. Alleging inaction on the part of the municipal authorities in not taking steps pursuant to the complaint made by the opposite party nos.6 to 11 herein, the writ petition being WPA 4700/2023 was filed by the said opposite parties. The said writ petition was disposed of by a coordinate bench by an order dated April 18, 2023 by directing the Board of Councillors, Dum Dum Municipality to consider and dispose of the representation made by the writ petitioners therein/opposite party nos.6 to 11 herein strictly in accordance with law after giving opportunity to all the necessary parties within the time-limit stipulated in the said order.
4. Pursuant to the said order, a proceeding under Section 218 of the West Bengal Municipal Act, 1993 was initiated by the concerned municipality and an order of demolition dated February 28, 2024 was passed. Challenging the said order of the demolition, the petitioners herein preferred the Municipal Appeal No.4/2024 before the learned Civil Judge, (Junior Division), Bidhannagar, North 24 Parganas, which was dismissed by the judgment and order impugned.
5. Mr. Basu, learned senior counsel appearing for the petitioners submits that the order passed by the Board of Councillors of the municipality was not communicated to the petitioners and only an extract of the resolution signed by the Chairman of the said

municipality was supplied to the petitioners. He further submits that neither any joint inspection report nor any demolition sketch plan/map was supplied to the petitioners. He further submits that there has been gross violation of the principles of natural justice in the case on hand.

6. Mr. Basu, learned senior counsel for the petitioners placed reliance upon an decision of the co-ordinate bench in the case of *Ashim Chakraborty* (Supra) in support of his contention that non-supply of relevant documents voids the principles of natural justice.
7. He further refers to the decision of a co-ordinate bench in the case of *Madan Mohon Pal & Anr. vs. State of West Bengal & Ors.* in W.P. No.15840(W) of 2006 in support of his contention that the Chairman alone is not competent to pass any order of demolition either under Section 218(1) of the West Bengal Municipal Act, 1993 and only authorizes the Board of Councillors to pass an order of demolition.
8. Ms. Bhowal Learned counsel appearing for the municipality submits that the inspection was held in the presence of the respective parties and the parties have put their signature on the joint inspection report as well as in the attendance sheet at the time of such inspection. She further submits that the parties were afforded with an opportunity of hearing and thereafter the Board of Councillors passed an order of demolition

after considering the materials, which were available on the records, including the joint inspection report.

9. The learned advocate appearing for the opposite party nos.6 to 11 submits that the petitioners have made construction in deviation of the sanction plan and such deviation was detected in course of such inspection which was duly recorded in the joint inspection report. He submits that the learned Judge after considering the materials on record refused to interfere with the order of demolition.
10. In reply, Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioners did not put their signature on the joint inspection report but they have only put their signature on the attendance sheet at the time of such inspection.
11. Heard the learned advocates for the respective parties and perused the materials placed. This court vide order dated August 29, 2025 directed the municipality to produce the records.
12. Today, when this matter is taken up for hearing, learned advocate appearing for the municipality produced a photocopy of some of the documents from the records of the concerned municipality and not the original records. The learned advocate for the municipality, however, failed to produce the original order passed by the Board of Councillors directing demolition of the unauthorized construction.

13. On a query of the Court, the learned advocate for the Municipality, in her usual fairness, submits that the copy of the joint inspection report was not supplied to the respective parties prior to the hearing before the Board of Councillors of the municipality.
14. The purpose of hearing before the Board of Councillors was to ascertain whether any unauthorized construction has been made by the petitioner or not. A person against whom an allegation of unauthorized construction has been made and a proceeding under Section 218 of the 1993 Act is initiated, is entitled to a copy of the inspection report and the demolition sketch plan which forms the very basis of the ultimate decision. A person against whom a proceeding under Section 218 is initiated cannot defend such proceeding effectively without such documents being made available to him.
15. It is not in dispute that in the case at hand, the joint inspection report was not supplied to the petitioners prior to the hearing before the Municipality. Since the joint inspection report was not supplied to the petitioners prior to the hearing fixed before the Board of Councillor, such opportunity of hearing cannot be said to be an effective opportunity in the eye of law.
16. The Co-ordinate Bench in the case of *Ashim Chakraborty vs. Kolkata Municipal Corporation & Ors.* reported in 2017 SCC OnLine Cal 15976 observed that

supply of precis as well as demolition sketch plan are mandatory and any attempt to conceal the said foundational documents would result in setting aside the said decision. It was further held therein that any supply of relevant documents which the authority intended to rely on or in fact, relied upon offends the principles of natural justice.

17. After going through the extract of the order of demolition, this court finds that the same refers to the inspection report, a copy of which was admittedly not supplied to the petitioners, prior to the hearing before the Board of Councillors of the municipality.
18. By applying the proposition of law laid down in *Ashim Chakraborty* (supra), this court holds that the order of demolition passed by the Municipality without supplying the relevant documents relied upon in the said order amounts to violation of the principles of natural justice.
19. In *Madan Mohon Pal* (Supra), the co-ordinate bench reiterated the proposition of the Hon'ble Division Bench in the case of *Priya Brata Maity vs. State of West Bengal* reported in 2000 (1) CLJ 175, wherein it was held that the Chairman alone cannot pass any order of demolition of any construction, even if it is found to be illegal and/or unauthorized and/or without sanction plan.

20. There is no quarrel to the proposition of law laid down in *Madan Mohon Pal* (Supra) that it is only the Board of Councillors and the Chairman alone cannot pass an order of demolition of a construction, even if it is found to be illegal and/or unauthorized and/or without sanction plan. At the time of hearing of this application, the municipality could not produce the original order passed by the Board of Councillors but only an extract of the resolution signed by the Chairman has been produced.
21. In the absence of any document to show that the Board of Councillors passed the order of demolition, this court holds that the municipality failed to demonstrate that the Board of Councillors passed the demolition order.
22. In view of the aforesaid discussion, the order of demolition dated February 28, 2025 and the order passed by the learned Civil Judge, Junior Division, Bidhannagar, North 24 Parganas in Municipal Appeal No.4/2024 are set aside. The demolition proceedings stand restored to the file of the Board of Councillors of the Municipality.
23. The board of Councillors, Dum Dum Municipality is directed to serve a copy of the Joint inspection report, as well as the demolition sketch plan and/or any other relevant materials that may be used at the time of hearing in the demolition proceedings against the

respective parties and thereafter decide the demolition proceedings already initiated and dispose of such proceeding afresh in accordance of law after giving opportunity of hearing to the respective parties and by passing a speaking order which shall be communicated to the respective parties or their authorized representatives within a period of one week from the date of passing of such order.

24. It will be open to the respective parties and/or their authorized legal representative to place reliance on any relevant circulars and orders passed by any Court of law at the time of the hearing before the Board of Councillors.
25. Accordingly, CO 2553 of 2025 along with CAN 1 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)