

13.05.2025

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Ct. No.7

sdas

WPA 17670 of 2022

Sadik Molla

Vs.

The State of West Bengal & Ors.

Mr. Sahid Uddin Ahmed

.....for the petitioner

Mr. Samrat Sen, learned AAAG

Mr. Niloptal Chatterjee

Mr. S. Chakraborty

..... for the State

By filing the present writ petition, the petitioner challenges the legality of the order dated 29th March, 2022, passed by the District Magistrate, South 24 Parganas. In addition, the petitioner seeks a direction upon the concerned respondents to compensate him for the alleged illegal demolition of his brick-built shop room.

The petitioner contends that the demolition was carried out without serving any prior notice and without adherence to the due process of law. He submits that the said action by the District Magistrate is arbitrary, unlawful, and in violation of his legal rights. Accordingly, the petitioner claims to

compensation from the concerned authorities for the losses suffered due to such illegal demolition.

Mr. Chatterjee, learned advocate appearing on behalf of the State, submits that the petitioner had constructed a brick-built shop room by encroaching upon land belonging to the Public Works Department (PWD). He further states that the authorities had undertaken a water pipeline project intended to supply drinking water to approximately 32 lakh residents of the locality. The petitioner's shop room was causing an obstruction to the smooth execution of the said project. Consequently, the concerned authorities were compelled to demolish the structure in order to facilitate uninterrupted progress of the project work.

In response, Mr. Ahmed, learned Advocate appearing for the petitioner, submits that the demolition of the shop room was carried out prior to the commencement of the pipeline-laying work.

Heard the learned advocates representing both parties and perused the materials available on record. The petitioner does not dispute that the shop room in question was constructed by encroaching upon land belonging to the Public Works Department (hereinafter referred to as "PWD"). His

sole grievance is that no notice was served upon him prior to the demolition of the said structure.

It is, therefore, admitted that the petitioner, without any lawful authority or entitlement, erected the shop room on land vested in the PWD. Any act done without legal sanction is per se illegal, and such illegality cannot form the basis of any enforceable right. It is a settled position of law that an act which is void ab initio cannot confer any legal right upon any person. Accordingly, the petitioner cannot claim any enforceable right to seek compensation for the demolition of a structure that was illegally constructed on public land. It is also well settled that mere non-service of notice or technical violation of procedural rights, in the absence of any legal entitlement, does not by itself justify interference by this Court. A person alleging infringement of rights must first establish the existence of a legally recognized right, including the right to notice or an opportunity of hearing.

In view of the above, I am of the considered opinion that no interference is warranted in the present writ petition. The same is, therefore, liable to be dismissed.

Accordingly, the writ petition is dismissed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)