

15
03.11.2025
sb
Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21459 of 2024

With

CAN 3 of 2025

Ripan Mondal

Versus

The State of West Bengal & Ors.

Mr. Phiroze Edulji, Sr. Advocate
Mr. Achintya Kumar Banerjee
Mr. Debjit Mukherjee
Mr Avik Ghatak
Mr. Supriyo Majumder
Ms. Afreen Begum
Mr. Soumen Chatterjee
Ms. Sayani Das
Ms. Priyanka Bhattacharya
Mr. Aritra Ranjan Dutta Roy
... For the petitioner.

Mr. Swapan Banerjee
Mr. Shehnaz Tareq Mina
Mr. Ranjit Rajak
... For the State.

Mr. Sankha Subhra Ray
... For the Kamarhati Municipality

Mr. Partha Sarathi Datta
... For the respondent no.9

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Arindam Banerjee, Sr. Advocate
Mr. Sabyasachi Chatterjee
Mr. Soumyadeep Nag
Ms. Soumali Das
... For the respondent nos. 10 and 11

1. The instant writ petition has been filed inter alia praying for an appropriate direction upon the respondent no.9 for demolition of the illegal and unauthorized construction lying and situate at 1 No. Pratap Rudra Lane, Ariadaha, Kolkata- 700057.

2. Records would reveal that after exchange of affidavits a Coordinate Bench of this Court on 25th June, 2025 was inter alia pleased to pass the following order.

“1. The Petitioner in the present writ petition is challenging the inaction of the Respondent Municipality in not taking any action against the illegal and unauthorised construction existing at the premises No. 1, Pratap Rudra Lane, Ariadaha, Kolkata-700057 at the instance of Respondent No. 9.

2. It is the case of the Petitioner that the premises in question was a water body, and the Respondent No. 9 illegally filled it up partially and construed a G+3 story building at the said premises. Being aggrieved by the said unauthorised construction, the Petitioner filed many representations. However, Respondent Municipality failed to take any action.

3. In view thereof, this Court vide order dated 19.05.2025, passed the following order:

“5. Learned counsel for the respondent municipality seeks and is granted four weeks time to file his report by way of an affidavit indicating steps that has been taken for demolishing the said unauthorized construction in accordance with law. 6. List after five weeks on 23.6.2025”.

4. In pursuance of the said order, the Respondent Municipality issued a Notice of Eviction dated 29.05.2025 indicating that they are intended to carry out the demolition action on 13.06.2025 and asked the occupants of the said building to vacate the said premises before the said date.

5. Being aggrieved by the said eviction notice dated 29.05.2025, the newly added respondents (occupiers of the said property) challenged the same before this Court in WPA 12225/2025. The Coordinate bench of this Court, vide order dated 03.06.2025 dismissed the said writ Petition. The operative portion of the said Judgment reads as follows:

“ 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, impermissible. which is 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”.

6. *The Petitioner in WPA 12225/2025 challenged the said order of the single Bench before the Division Bench in MAT 837/2025. The Hon’ble Division Bench vide order dated 10.06.2025 disposed of the said Appeal by making the Appellants therein as party to the present proceedings. The Hon’ble Division Bench neither interfered with the demolition notice dated 29.06.2025 passed by the Respondent Municipality nor the order dated 03.16.2025 passed by the Learned Single Judge. The Hon’ble Division Bench kept the question of locus standi of the Appellant to challenge the said demolition order dated 29.06.2025 kept open to be decided by this Court. The operative portion of the said order of the Hon’ble Division Bench, reads as follows:*

“7. Having heard Mr. Arindam Banerjee, learned senior advocate for the appellants and Mr. Saptangshu Basu, learned senior advocate for the private respondent/ complainant in WPA 21459 of 2024 as also the

Municipality and the State, this Court is of the view that the appellants may be added as party respondents to the aforesaid WPA 21459 of 2024.

8. The appellants may make appropriate submissions in the said writ petition before the Single Bench which is seized of the said proceedings.

9. It is made clear that the locus of the appellants has not been decided by this Court and kept open for the Single Bench to take an appropriate decision on the issue. All other points are also kept open for being independently decided by the Single Bench in WPA 21459 of 2024.

10. With the aforesaid observations, MAT 837 of 2025 and MAT 838 of 2025 along with applications shall stand disposed of”.

7. The Appellants in MAT 837/2025 filed CAN No. 1 (Application for amending the cause title) and CAN 2 (Application for stay of the demolition order dated 29.05.2025 before this Court. This Court vide order dated 12.06.2025 allowed both the applications and granted stay of the order dated 29.06.2025 for 2 weeks.

8. Today the matter is listed before this Court for further proceedings.

9. The Learned Counsel for the Respondent Municipality submits that they have already initiated the proceedings under Section 218 of the West Bengal Municipal Act, 1993.

10. In order to bring the ongoing controversy to an early and effective resolution, this Court directs the Respondent Municipality to conclude the proceedings initiated under Section 218 of the West Bengal Municipal Act, 1993, within a period of six weeks from the date of communication of this order. The said proceedings shall be conducted strictly in accordance with law. While passing the final order, the Respondent Municipality shall ensure that the newly added respondents are afforded a reasonable and effective opportunity of hearing, in keeping with the principles of natural justice. 11. This Court further notes that, by virtue of the order dated 10.06.2025 passed in MAT 837 of 2025,

the newly added Respondents have already been impleaded as parties to the present proceedings. Although this Court has not entered into the question of their locus standi at this stage, considering that the said parties claim to be in occupation of the premises in question and may be affected by any adverse order passed under Section 218 of the Act, this Court is of the considered view that, in the interest of fairness and to avoid future litigation, it would be prudent for the Respondent Municipality to also afford them an opportunity of hearing before passing a final order in the pending proceedings. However, it is made clear that this direction shall not be construed as a recognition or affirmation of any substantive right, title, or interest of the newly added Respondents in the subject premises. Their right to a hearing is being extended solely to uphold the principles of natural justice.

12. Although the demolition notice dated 29.05.2025 is not under direct challenge in the present writ proceedings, this Court deems it appropriate to observe that the said notice has, in effect, become infructuous as on date. As per the terms of the said notice, the demolition was scheduled to be carried out on 13.06.2025. However, no demolition action could be undertaken owing to the interim order of stay granted by this Court on 12.06.2025. Consequently, the demolition notice has lost its operative force and cannot now be acted upon without a fresh decision being taken in accordance with law and after following due procedure. In view thereof, the same is set aside.

13. Compliance report shall be placed before this Court after the conclusion of the said proceedings.

14. List this matter after 8 weeks (20.08.2025)".

3. Pursuant to the above, the municipal authorities have filed a compliance report in the form of an affidavit affirmed on 19th August, 2025. From such report, it would transpire that the municipal authorities had issued

notices to all the parties for hearing which was conducted on 28th July, 2025. Photocopy of the extract of the minutes of the proceedings dated 28th July, 2025 have been produced, which forms annexure R-2 to the report affirmed on 19th August, 2025. It would also transpire therefrom that a decision has been taken by the Board of Councilors of Kamarhati Municipality that the construction made at 1 No., Pratap Rudra Lane, Ariadaha, Kolkata- 700057, Ward No. 10 is not lawfully made and the construction is unauthorized and should be demolished. Incidentally, apart from the above order no further steps have been taken by the municipality to ensure that the unauthorized structure is demolished. I, however, notice that the Court by order dated 12th June, 2025 had initially granted stay of the demolition notice dated 29th May, 2025 for a period of two weeks from date of passing of such order. Later, the Court was of the view that since demolition notice has lost its operative force and no longer could be acted upon without a fresh decision taken in accordance with law, the same was set aside.

4. Having regard to the decision contained in the order dated 25th June, 2025 and the municipality and the parties having not acted thereon, I am of the view that the aforesaid demolition proceedings should now be brought to a logical conclusion by the municipal authorities by ensuring demolition of the illegal structure by issuing appropriate demolition notice in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of communication of this order.

5. With the above observations and directions, the writ petition along with the connected application being CAN 3 of 2025 is disposed of without any order as to costs.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)