

05-06. 05.08.2025
Court No.03.
(Pritam)

WPA 9398 of 2024.

Subir Kumar Datta

-Vs.-

The State of West Bengal & Ors.

With

WPA 23501 of 2023

Subhash Chandra Datta

-Vs.-

The State of West Bengal & Ors.

Mr. Sankar Biswas,
Mr. Debnath Mahata,
Ms. Ananya Adhikary.

.....for the petitioner in WPA 9398 of 2024.

Mr. Tanmoy Mukherjee,
Mr. Kaushik Roy,
Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Rudranil Das,
Ms. Soumava Santra.

....for the petitioner in WPA 23501 of 2023.

Mr. Himadri Sekhar Chakraborty,
Mr. Tamal Taru Panda.

.....for the State in WPA 9398 of 2024.

Mr. Tanmoy Mukherjee,
Mr. Kaushik Roy,
Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Rudranil Das,
Ms. Soumava Santra.

.....for the respondent no.5 in WPA 9398 of 2024.

Mr. Sankar Biswas,
Mr. Debnath Mahata,
Ms. Ananya Adhikary.

...for the respondent no.5 in WPA 23501 of 2023.

Mr. Subhabrata Das,
Mr. Mrinal Kanti Das,
Mr. Arindam Banerjee.

....for the North Barrackpore Municipality.

In Re :- WPA 9398 of 2024.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. The petitioner in the present writ petition is challenging the inaction of the respondent in not implementing the demolition order dated February 20, 2023 passed by the Chairman of the respondent municipality with regard to holding no.605/Ward No.3, North Barrackpore Municipality.
3. This is the third round of litigation. The petitioner is claiming to be one of the co-sharers of the premises in question. The petitioner initiated WPA No.22092 of 2022, alleging unauthorized construction of the above-mentioned property at the instance of the respondent no.5. It is the contention of the petitioner that the said construction was in violation of the restraint order passed by the Civil Court in T.S. No.496/2022. This court vide order dated November 21, 2022 disposed of the writ petition by directing the Board of Councillors of the respondent municipality to consider and dispose of the writ petitioner's objections.
4. In pursuance of the said direction, the respondent municipality, after affording opportunity of hearing to the parties, passed a demolition order dated February 20,

2023. Since the said order has not been implemented, the petitioner has preferred a second writ petition in WPA 8854 of 2023.

5. This court vide order dated July 17, 2023 disposed of the said writ petitions clarifying that if the person responsible fails to obtain any order staying/modifying/setting aside the impugned order of demolition dated August 31, 2023, then it will be open for the respondent municipality to take necessary steps to proceed with the demolition of the unauthorized construction.
6. The respondent challenged the said order dated February 20, 2023 before the Civil Judge, Junior Division, 2nd Court, Barrackpore, North 24 Parganas in Municipal Appeal No.03/2023 and obtained a stay till the disposal of the appeal.
7. The said appeal was dismissed by an order dated January 8, 2024. The petitioner thereafter made a representation before the municipality. However, till date, the same has not been acted upon.
8. Learned counsel for the petitioner states that despite such representation, the respondent municipality failed and/ or neglected to comply and/ or to execute the order of demolition dated February 20, 2023. Being aggrieved by the same, the petitioner has preferred the second writ petition seeking implementation of the said order.

9. Learned counsel for the respondent municipality seeks and granted three weeks' time to file a report by way of an affidavit. Exception to the same, if any, be filed within one week thereafter.
10. List the matter after four weeks, i.e., on **September 2, 2025.**

In Re :- WPA 23501 of 2023.

11. The petitioner in the present writ petition is seeking a direction upon the respondent no.3 and 4 to consider his representation dated January 13, 2023, purportedly annexed as annexure p-3. However, upon perusal of the records, it appears that no such representation dated January 13, 2023 is available on record as annexure p-3. Instead, annexure p-3 is a copy of the order of this Court dated July 17, 2023 passed in WPA 8854 of 2023 and in WPA 5309 of 2023.
12. At this stage, learned counsel for the petitioner seeks to withdraw the present writ petition to file another writ petition with better particulars.
13. Liberty, as prayed for, is granted.
14. The instant writ petition being WPA 23501 of 2023 is dismissed as withdrawn.

(Gaurang Kanth, J.)