

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27249 of 2024

Kakuli Kundu
Versus
The State of West Bengal & Ors.

Mr. Rabindra Kumar Jaiswal
Ms. Debolina Bhar
... For the petitioner

Mr. Debabrata Chatterjee
Mr. Srimanta Kabir
... For Basirhat Municipality.

Mr. Shiven Ray
... For the respondent no.8

1. The instant writ petition has been filed, *inter alia*, praying for a direction upon the respondent no.3 to take steps in relation to the unauthorized construction carried out by the original respondent no.7.

2. It is the petitioner's case that the respondent no.7 during his life time has carried out illegal construction by constructing a building at Plot No.2411, Mouza Bashirhat, District North 24 Pargahas. Despite making complaint dated 2nd February, 2016, with the municipal authorities no steps having been taken by the municipal authorities, the petitioner was constrained to file a writ petition which was numbered as WP No.2290 (W) of 2016. By an order dated 17th March, 2017 the writ petition was disposed of by directing Basirhat Municipality to inspect the site in question and in the event it is found that the

construction is unauthorized and illegal, to take steps to initiate proceedings in accordance with law.

3. Pursuant to the aforesaid, an order was passed on 20th July, 2017 by the Chairman of the Basirhat Municipality holding that the constructions are unlawful. Since, thereafter, no further steps were taken by the municipality, the petitioner was constrained to invite the attention of such fact to the board of councilors by notice in writing dated 9th October, 2018. Ultimately, the petitioner was constrained to file yet another writ petition which was numbered as WP No. 22205 (W) of 2018. By an order dated 3rd December, 2018, in the facts of the case, the Coordinate Bench of this Court was, *inter alia*, pleased to direct Basirhat Municipality to invoke the provision of Section 218 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) and dispose of the proceedings within 12 weeks there-from.

4. Notwithstanding the aforesaid order, since the municipal authorities did not take any steps, the petitioner was constrained to file a contempt application and thereafter the proceedings under Section 218 of the said Act was initiated and only thereafter, the order dated July, 2021 was passed directing the private respondent nos.7 and 8 to demolish the unauthorized construction.

5. According to the petitioner notwithstanding the above order, demolition did not take place, no further steps have been taken by the municipal authority, as such, the instant writ petition has been filed.

6. Today, Mr. Kabir, learned advocate representing Basirhat Municipality would submit that since the private respondents did not take any steps to comply with the above direction dated July, 2021, appearing at page 58 of this writ petition the municipality is in the process of taking further steps for completing the demolition work.

7. Mr. Ray, learned advocate appears for the respondent no.8. He submits that the construction is not unauthorized.

8. Having heard the learned advocates appearing for the respective parties I find that the conduct of the municipal authorities is deplorable to say the least. Notwithstanding specific directions being issued from time to time, the municipality has not taken any steps to bring the demolition proceeding to a logical conclusion. I also find that although the municipal authority had ultimately passed an order directing demolition in July, 2021 no further steps have been taken thereafter to enforce such order. Though, Mr. Ray learned advocate for the respondent no.8 tried to make out his case that the construction is not unauthorized I am unable to accede to such contention having regard to the chronology of events narrated in the writ petition. At no stage the order passed by the municipal authorities had been challenged by the respondent nos. 7 or 8.

9. In the light of the above, I direct the respondent nos. 2, 3, 4 and 5 to take immediate steps for demolition of the unauthorized construction in accordance with law.

10. The Inspector-in-Charge, Basirhat Police Station is directed to render adequate assistance to the municipal authorities. The demolition work must be carried out within a period of four weeks from the date of communication of this order.

11. With the above observations and directions, the writ petition 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.)