

03.11.2025
Ct. 3
Item No.
AD 23
Saswata

WPA 28687 of 2024
Bikash Saha
Versus
State of West Bengal & Ors.

Mr. Amitabha Ghosh	... For the petitioner
Mr. Vimal Kumar Shahi	
Ms. Pratiti Das	
	...For the State
Mr. Arka Kumar Nag	
Ms. Deboleena Ghosh	
	...For the Serampur Municipality
Mr. Neil Basu	
Mr. Sankha Biswas	
Ms. Avidipta Paul	
Ms. Oindrila Sarkar	
	...For the respondent nos. 10 and 11

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondent no. 6 to cancel the impugned demolition order in respect of premises no. 33 N.S. Avenue, Serampore and to dispose of the petitioner's representation.
2. It would transpire from the records that the petitioner is a tenant in respect of a shop room at ground floor at 33 NS avenue, Serampore. It would also transpire that a proceeding is pending before the Civil Court and an order of injunction has been passed on 22nd August 2024 restraining the defendants from dispossessing the plaintiff in respect of ka-1 schedule property. Form the copy of the injunction application the description of the property can be noted and is extracted hereinbelow:

Description of the (Ka) Schedule Suit Property Referred to Above:

A piece and parcel of land measuring about an area 03 Kottah 7 Chittaks equivalent to 0.055 acre together with two storied pucca R.C.C. building measuring about 2000 Sq. Ft. included in the R.S. Plot No. 6103 under Khatian No. 2109 corresponding L.R. Plot No. 6650, under L.R. Khatian No. 22412 of Mouza- Serampore (J. L. No. 13) being Municipal Holding No. 33, N. S. Avenue (Ward No. 7), within the ambit of Serampore Municipality, under P.S. Serampore, in the District of Hooghly, together with all right of user of common passage and all rights of ingress and egress rights of taking all connections and by taking electric connection, telephone connection, internet connection and other connections through and over the said passage and also right of constructing drain and all other easements right.

Description of the (Ka-1) Schedule Suit Property Referred to Above:-

Item No.1 :- A piece and parcel of One Pucca shop room premises measuring about 250 Sq. Ft. out of 3 Kottah 7 Chittaks equivalent to 0.0568 acre in the Ground Floor included in the R.S. Plot No. 6103 under Khatian No. 2109 corresponding L.R. Plot No. 6650, under L.R. Khatian No. 22412 of Mouza- Serampore (J. L. No. 13) being Municipal Holding No. 33, N. S. Avenue (Ward No. 7), within the ambit of Serampore Municipality, under P.S. Serampore, in the District of Hooghly.

Item No.2:- A piece and parcel of 350 Sq. Ft. area in the first floor together with one bed room together with three varandas, in the Northern side, in the Southern side and in the Western side which is also for egress and ingress passage to the bed room and bathroom & the privy in the Eastern side altogether measuring more or less 350 Sq. Ft. in the First Floor included in the Plot No. 6103 under Khatian No. 2109 corresponding L.R. Plot No. 6650, under L.R. Khatian No. 22412 of Mouza-Serampore (J. L. No. 13) being Municipal Holding No. 33, N. S. Avenue, within the ambit of Serampore Municipality, under P.S. Serampore, in the District of Hooghly.”

3. According to the petitioner, the interim order which was passed on 27th August 2024 is still subsisting. However, no subsequent order has been placed before this Court to demonstrate that the said order of injunction was subsequently extended by the Civil Court.
4. Be that as it may, from the report filed on behalf the Serampore Municipality it would transpire that the permission to demolish the existing structure at premises No.33 NS Avenue was limited to the property excluding the area which forms subject matter of injunction. This apart, Mr. Nag, learned advocate appearing for the Municipality has placed before this Court a reasoned order dated 5th June 2025 passed in connection with WPA 3113 of 2025 and submits that pursuant to the direction passed by a Coordinate Bench of this Court in WPA 3113 of 2025 on 25th March 2025, the Councilors of the Municipality has observed as follows:-

After considering the facts, documents, and verbal submissions, the Board of Councillors has decided as follows:

1. The respondent shall submit a **valid Fire License** within **15 (fifteen) days** from the date of communication of this order.
2. The respondent shall submit a **valid Rent Agreement** and an **up-to-date Trade License** within **7 (seven) days** from the date of receipt of this order.
3. The respondent is **strictly prohibited** from **storing or using LPG cylinders** at the said premises **without obtaining prior written permission** from the appropriate licensing authority. Any such

activity must be duly authorized and complaint with relevant fire safety regulations.

Failure to comply with the above directions will result in **immediate suspension** of the business activities of "Saha Drink & Confectionery" at 33, N.S. Avenue, Serampore, Hooghly. and the respondent shall not be permitted to operate the said establishment until further orders from this Municipality."

5. According to Mr. Nag, the petitioner has failed to produce any valid fire license and as such, the order of suspending the business activity has come into force.
6. Having heard the learned advocates appearing for the respective parties and considering the materials on record, I find that case of the petitioner is that the private respondent nos. 9 to 11 notwithstanding the order of injunction are trying to evict the petitioner from the above property on the strength of an order passed by the Municipality by treating the property to be a dangerous building. However, from the permission granted by the municipal authorities on 12th November 2024 it would transpire that such permission is subject to the order of injunction.
7. Having regard thereto, I do not find any irregularity in the steps taken by the Municipality in granting permission to the private respondents. The right of the petitioner over the property cannot interfere with the right of the others to carry on construction by developing the property in accordance with law.
8. This apart, I also notice that having regard to the reasoned order passed by the Chariman, Srerampore

Municipality, the business of the petitioner has also been suspended. However, since such order is not the subject matter of challenge in the instant writ petition, I do not make any observations as regards the same.

9. The writ petition is accordingly disposed of.

10. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)