

GAHC010019062015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4746/2015

DEEPAK BARUAH
S/O LT. BIDYADHAR BARUAH, R/O JILIKA PATH, SANKARDEV NAGAR, P.S.
DISPUR, GHY-37

VERSUS

THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY and ANR
HAVING ITS OFFICE AND PRINCIPAL PLACE OF BUSINESS AT
BHANGAGRAH, GHY-5, REP. BY THE CHIEF EXECUTIVE OFFICER

2:THE CHIEF EXECUTIVE OFFICER
G.M.D.A.
BHANGAGARH
GHY-

For the petitioner (s) : Mr. S. P. Roy, Advocate

For the respondent (s) : MR. S. Borah, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

08.01.2024

The instant writ petition has been filed by the petitioner challenging the order dated 03.08.2015 passed in Misc. Appeal No.36/2015 by the Additional District Judge No.2, Kamrup (M), Guwahati.

2. The facts which are discernable from the perusal of the writ petition are that a show cause notice was issued to the petitioner on 27.05.2015 under Section 87 of the GMDA Act, 1985 to stop forthwith the deviated construction and show cause within 10 days of receiving of the said notice why the unauthorized building should not be demolished under Section 88(1) of the GMDA Act, 1985 or seal the unauthorized erection or work of the premises in which such work has been carried out or completed under Section 88 (4) of the GMDA Act, 1985. This show cause proceedings was put to challenge by the petitioner by filing an Appeal before the Appellate Authority, i.e. the District Judge, Kamrup (M) at Guwahati. The said Appeal thereupon was transferred to the Court of the Additional Sessions Judge No.2, Kamrup (M) at Guwahati for disposal. Vide an order dated 03.08.2015, the said Appeal was not entertained taking into account that an Appeal lies under Section 71 of the GMDA Act, 1985 against an order. However, as the Appeal was filed against a show cause notice, the said Appeal was not maintainable. It is under such circumstances, the petitioner has assailed the order dated 03.08.2015 passed in Misc. Appeal No.36/2015.

3. This Court had issued notice vide an order dated 25.08.2015 and also directed the respondent authorities not to take any coercive action by way of demolition in respect to the building constructed by the petitioner.

4. Mr. S. P. Roy, the learned counsel appearing on behalf of the petitioner submitted that the petitioner had expired on 31.03.2022. Taking into account that the entire proceedings arises out of a show cause proceedings initiated against the petitioner who is no longer alive, the said show cause proceedings has therefore become redundant in view of the

death of the petitioner. Consequently, therefore, the show cause notice dated 27.05.2015 issued by the Chief Executive Officer, Guwahati Metropolitan Development Authority is set aside and quashed as it has become redundant.

5. It is however made clear that the setting aside and quashing the said show cause proceedings initiated on the basis of the show cause notice dated 27.05.2015 by the Chief Executive Officer, Guwahati Metropolitan Development Authority shall not preclude the Guwahati Metropolitan Development Authority to take appropriate steps in accordance with law against the legal representatives of the petitioner, if so advised.

6. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant