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W.P.A. 21622 of 2019
With
IA No. 2 of 2020 (CAN 5289 of 2020)
With
IA. No. 1 of 2020 (CAN 5288 of 2020)
Sri Prasanta Senapati
-Versus-
The State of West Bengal & Ors.

Mr. Dip Jyoti Chakraborty
Mr. Joy Chakraborty ...For the Petitioner

Mr. Sukumar Bhattacharyya
Ms. Sayani Bhattacharya ...For Respondent No. 5

Mr. N.C. Bihani
Ms. Papiya Banerjee ...For Respondent HMC

In view of the urgency, the matter is taken up virtually. The application being, I.A. No. 2 of 2020 (C.A.N. 5289 of 2020) is disposed of.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the illegal and unauthorised construction being carried out by the respondent No. 5 in a premises next to the petitioner's premises.

Learned Counsel appearing on behalf of the petitioner submits that due to additional construction of floors, in an unauthorised manner, his easementary rights with regard to air and light have been drastically impacted.

Mr. Sukumar Bhattacharyya, learned Counsel appearing on behalf of the respondent No. 5 submits that the present writ petition is not maintainable as it relates easementary rights, and accordingly, the petition is liable to be dismissed in limine. He further submits that the petitioner should agitate his grievance before the Civil Court to obtain proper relief.

Mr. N.C. Bihani, learned Counsel appearing on behalf of the Howrah Municipal Corporation (HMC) has submitted before this Court a notice dated June 17, 2019 that

has been issued upon the respondent No. 5 with regard to self-demolition of the unauthorised construction.

I have heard learned Counsel appearing on behalf of all the parties and perused the materials placed on record.

Normally, the Writ Court would not have interfered in this writ petition as the same relates to easementary rights. However, in the present case Mr. Bhattacharyya has submitted that in response to the self-demolition notice, the respondent No. 5 has made a representation before the HMC for regularisation of the said unauthorised construction. Since, this admission is on record, and HMC has already acted with regard to the unauthorised construction, this writ petition is disposed of with a direction upon the HMC to act in accordance with the provisions of the statute and take subsequent steps that are required to be taken under the law.

With the above observations, this writ petition is disposed of along with the application, being **IA No. 1 of 2020 (CAN 5288 of 2020)** .

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)