

S/L 9
25.11.2020
Ct. No. 3
GB

W.P.A 7374 of 2020

Md. Abbas
Vs.
Howrah Municipal Corporation & Ors.

(Through Video Conference)

Mr. Sanjay Saha.

...for the Petitioner.

*Mr. Sandipan Banerjee,
Mr. Ankit Surekha*

...for the Howrah Municipal Corporation.

The writ petition has been filed alleging unauthorised construction by the respondent no.6, who is a promoter on the premise in respect of which a partition suit is pending. On the last occasion a learned Judge of this Court had directed the Howrah Municipal Corporation to visit the locale, make an inspection and submit a report as to whether there was any unauthorised construction or not.

It is submitted by the learned Advocate for the Howrah Municipal Corporation that an inspection was held but the report is not yet ready. It is further submitted by the learned advocate for the Howrah Municipal Corporation that another writ petition with regard to the same premises is pending on the selfsame cause of action. To this, the petitioner submits that premises no. 28 Dr. Md. Shamim Khan Road was formally known as 19, Jaya Bibi Road in Ward No.59, Police Station-Belur, District - Howrah. The earlier writ petition was regard to a separate plot which has

now been amalgamated and forms part of premises no. 28 Dr. Md. Shamim Khan Road. He submits that although challenge in both the writ petitions was unauthorised construction, yet the plot numbers were different and as such this writ petition was maintainable. The court need not consider these claims at this stage.

However, as there is an allegation of unauthorised construction, the Howrah Municipal Corporation which has already held the inspection in terms of an order of this court. Justice would be sub-served if the corporation makes a fresh inspection with regard to the construction made on the entire premises no. 28 Dr. Md. Shamim Khan Road in the presence of the petitioner, other interested parties and also the respondent no.6, that is, Shakil Ahmed. The inspection shall be held with seven days' advance notice to all and in the presence of all parties as indicated hereinabove. Sketch map shall be drawn, measurement shall be taken by the Executive Engineering, Building Department and/or his representative, minutes will be recorded and copies of the inspection report drawings and the site plan/sketch map shall be supplied to each party. If it is found by the Corporation that there is any deviation from the sanctioned plan or any kind of unauthorised construction, Howrah Municipal Corporation can proceed in accordance with law.

It is made clear that the Court has not gone into the merits of the case of the petitioner and the Howrah

Municipal Corporation shall act independently. The inspection shall be held within December 15, 2020.

Accordingly, WPA 7374 of 2020 is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)