

07
25.01.2021.
d.p/s.m.

**W.P.A 190 of 2021
(Via Video Conference)**

**Nemai Chand Bhattacharya
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Animesh Paul,
Ms. Fatima Hassan,
Ms. Shalomi Basu.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Santanu Chatterjee.
...For the HMC.**

**Mr. Pankaj Halder,
Mr. Sanatan Panja.
...For the Respondent
Nos. 5, 6 and 7.**

The petitioner prays for a direction upon the Municipality to take immediate steps for removal of the air conditioner compressor machine installed in the eastern side of the building wall of premises No. 59/A/22, Tantipara Lane, Police Station- Chatterjee Hat, Howrah-711104.

The petitioner submits that the compressor has been placed in such a manner that hot air released from the compressor is entering into the room of the petitioner, which is very dangerous to human health and life.

The petitioner has made a representation before the Howrah Municipal Corporation and prays for a direction upon the respondent authorities for consideration of the same.

The petitioner has relied upon provision of Section 2(21A) and Section 237 of the Howrah Municipal Corporation Act, 1980.

The aforesaid provision relates to nuisance and for prohibition of nuisance.

Prima facie it appears that the dispute in question is absolutely private in nature as to who should place an air-conditioner at what place and it is not open for the Corporation to inspect in each and every case as to whether the air-conditioner has been placed in the proper manner or not.

However, the definition of 'nuisance' as appearing in the Act includes any Act which is likely to cause disturbance to sleep or rest or which is or may be dangerous to health and property.

The petitioner being a senior citizen has alleged that the hot air from the air-conditioner machine is causing disturbance to sleep and rest and also injurious to his health.

In view of the above, the instant writ petition is disposed of by directing the Howrah Municipal Corporation to take necessary steps for consideration of the representation that has been made by the petitioner, strictly in accordance with law, within a period of eight weeks from the date of communication of a copy of this order.

The said respondent shall afford an opportunity of hearing to the petitioner and all other necessary parties prior to taking a decision in the matter.

The said respondent shall pass a reasoned order and communicate the same to the petitioner and all other necessary parties immediately thereafter.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the representation of the petitioner.

W.P.A. 190 of 2021 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)