

S/L 33
08.11.2021
Court. No. 19
GB

WPA 2256 of 2021

Uttam Kumar Das
Vs.
The Commissioner, Howrah Municipal Corporation & Ors.

(Through Video Conference)

Mr. Sankar Narayan Saha.
...for the Petitioner.

Ms. Sipra Majumdar,
Ms. Prativa Ghatak.
...for the State.

Mr. Arjun Roy Mukherjee,
Ms. Saheli Mukherjee.
...for the Respondent Nos. 7 & 8.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
...for the H.M.C.

The petitioner has alleged unauthorized construction on Premises No.58 (58/1 and 58/2) Ashutosh Mukherjee Lane, P.S. – Golabari, Howrah – 711106.

It is contended that such illegal and unauthorized construction has also deprived the petitioner from his rightful use of his own property situated at Premises No.57, Ashutosh Mukherjee Lane, Howrah.

Allegations of encroachment and also blockage of the common passage have been made. It is contended that the sewerage system has been clogged due to the construction work.

Mr. Roy Mukherjee, learned advocate for the respondent nos.7 and 8 submits that the question of

encroachment and also whether the passage concerned is a common passage or not, cannot be gone into in this proceeding.

Mr. Banjeree, learned advocate appearing on behalf of the Howrah Municipal Corporation submits that the complaint of the petitioner shall be dealt with in accordance with law.

Having considered the rival contentions of the parties, this Court is of the opinion that the writ petition should be disposed of with a direction upon the appropriate authority of the Howrah Municipal Corporation to act and proceed in accordance with law and on the basis of the complaint made by the petitioner. An inspection shall be made of the premises in question in the presence of the parties. A copy of the inspection report shall be handed over to the petitioner. Thereafter, a hearing should be given to the parties and the parties shall be allowed to file all supporting documents. Upon considering the entire matter, a reasoned order shall be passed and communicated to the parties. The Howrah Municipal Corporation shall take steps in accordance with law on the basis of the allegations and what transpires at the hearing.

This Court has not gone into the merits of the claims and counter-claims of the parties. The municipal authorities shall not decide the title of the property in question but shall restrict their findings and action to the question of alleged unauthorized construction, that is, whether there has been

any construction in the absence of any sanction plan or in deviation thereof.

The entire exercise shall be completed within a period of twelve weeks from date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)