

S/L 16
31.08.2021
Court. No. 19
GB

WPA 3674 of 2021

Sri Harihar Nath Shukla
Vs.
The Howrah Municipal Corporation & Ors.

(Through Video Conference)

*Mr. Supriyo Chattopadhyay,
Mr. B.P. Singh,
Ms. Saswati Adhikary.*

...for the Petitioner.

*Mr. Animesh Paul,
Mr. Ayan Mitra.*

...for the Respondent No.8 to 12.

*Mr. Sandipan Banerjee,
Mr. Ankit Sureka.*

...for the H.M.C.

*Mr. Rajarshi Basu,
Mr. S.T. Mina.*

...for the State.

The petitioner alleges unauthorized construction by the respondent no.9 on premises no.332, Belilious Road, Howrah. It is submitted that despite receiving complaints, the Howrah Municipal Corporation has not taken any steps to stop such unauthorized construction. It is further submitted by the petitioner that the sanction was given for a G+1 construction but the respondent no.9 has constructed G+5 floors without sanction of the Howrah Municipal Corporation.

Mr. Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation submits that the Executive Engineer, Building Department issued a show

cause notice upon the respondent no.9 to stop the work and show cause as to why the proceedings as per law shall not be initiated for demolition of the unauthorized construction.

Mr. Paul, learned advocate appearing on behalf of the respondent nos.8 to 12 submits that challenging the show cause notice, a suit has been filed before the learned Civil Judge, Senior Division, 1st Court at Howrah by the respondent No. 9 and the learned court has been pleased to pass an ad interim injunction restraining the defendants from giving effect to the said notice. Further restriction has been imposed upon the defendants from disturbing the peaceful possession of the plaintiffs therein and from changing the nature and character of the suit property. Thus, he submits that the orders as prayed for by the writ petitioner cannot be passed in view of the order of the civil court. Mr. Chattopadhyay and Mr. Banerjee both vehemently urge that it is not the civil court which has the jurisdiction under the special statute to act and proceed against illegal constructions. It is exclusively within the domain of the Corporation. However, records do not reveal that the petitioner is a party to the civil suit. The Howrah Municipal Corporation has suffered an ad-interim injunction and as yet the said order of injunction has not been vacated, modified, cancelled or set aside in an appropriate proceeding.

Thus, under such circumstances, no order can be passed in the writ petition. The petitioner submits that the petitioner is unaware of such proceeding.

The Howrah Municipal Corporation shall dispose of the representation of the petitioner and intimate the petitioner with regard to the pending suit and the orders passed therein. Such intimation should be given to the petitioner within a period of three weeks from date of communication of this order. This order will not prevent the petitioner from taking appropriate steps in accordance with law as may be advisable. If such steps are taken the same shall be considered by the learned court in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)