

S/L 4
08.12.2021
Court. No. 19
GB

WPA 5957 of 2021

Belal Raza
Vs.
The State of West Bengal & Ors.

Mr. Sanjib Seth.

...for the Petitioner.

*Mr. Manas Kundu,
Mr. Bibekananda Tripathi.*

...for the State.

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

...for the H.M.C.

Affidavit-of-service filed in Court today be kept with the record.

Pursuant to the earlier direction of this Court, the petitioner has once again issued a notice upon the respondent nos.8 to 12. The track report shows that the said respondents have received the notice.

The petitioner has alleged that the respondent nos.8 to 12 have constructed additional floors over and above the G+2 building on Holding No.51/1, Bashiruddin Munshi Lane, Post Office, Police Station and District – Howrah under the Howrah Municipal Corporation, Ward No.20. According to the petitioner, the said floors are illegal and unauthorized as the same had been constructed without any permission/sanction from the Howrah Municipal Corporation.

Mr. Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation has submitted a report from which it appears that a G+2 building was sanctioned. Minor deviations had been detected. A stop work notice was issued upon the said respondents and thereafter an 'as made' plan was submitted incorporating the said deviations. Retention fees have also been deposited. The report filed by Mr. Banerjee is taken on record.

From the instruction of Mr. Banerjee it appears that a G+2 building was sanctioned and some deviations with regard to the said sanction had been detected. Today, the petitioner has alleged that three additional floors have been constructed without a sanction plan. Such allegations are serious and submission of an 'as made' plan would not entitle regularization of these three floors.

Under such circumstances, the matter needs to be enquired into by the appropriate authority under the law.

The writ petition is disposed of with a direction upon the Howrah Municipal Corporation to act accordingly:

- a) An inspection be made by the competent authority of the Howrah Municipal Corporation of the premises in question in the presence of the petitioner as also the respondent nos.8 to 12.
- b) A report of the inspection along with a sketch map to show the extent of deviation and unauthorized construction shall be prepared and handed over to the parties.

- c) The parties shall be allowed to file their written version as also adduce oral and documentary evidences in support of their contentions.
- d) A hearing shall be given to the parties and a reasoned order shall be passed and communicated to all.
- e) The proceeding so initiated shall be reached to its logical conclusion and the Corporation shall ensure that unauthorized construction is not allowed except to the extent permissible under the law.

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

Although the respondent nos.8 to 12 are not present before this Court despite being served on two occasions, this matter is being disposed of as the court has directed that the authorities must put the respondents on notice at every step.

This Court has not gone into the merits of the claims and counter-claims of the parties. The Corporation will decide the entire issue independently.

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 basis of the server copy of this order.

(Shampa Sarkar, J.)