

Court No. 24

19.03.2021

(Item No. 32)

(AB)

W.P.A 6230 of 2021

Tara Pada Das

vs

The Howrah Municipal Corporation & Ors.

Mr. Asif Hussain

Mr. Deo Kant Sharma

..... for the petitioner

Mr. Sandipan Banerjee

Mr. Ankit Sureka

..... for Howrah Municipal Corpn.

Mr. Supriyo Chattopadhyay

Mr. Sudip Kumar Maiti

Ms. Saswati Adhikary

For respondent Nos. 6 & 7

The petitioner alleges illegal and unauthorized construction made by the private respondents in the premises No. 281/21/C, G. T. Road, Liluah, Howrah without leaving the mandatory side open spaces.

The petitioner submits that the representation made before the Howrah Municipal Corporation has not been considered till date.

The learned advocate representing the private respondents submits that the construction at the premises No. 281/21/C, G.T. Road, Liluah, Howrah is nearly 100 years old.

It has been submitted that the petitioner has made illegal and unauthorized construction in the adjoining premises being No. 281/21/B, G. T. Road, Liluah, Howrah by blocking the approach road of the premises of the private respondents.

The learned advocate appearing on behalf of the Howrah Municipal Corporation submits that the premises at 281/21/C, G.T. Road, Liluah, Howrah is a very old construction but the advocate is not aware as to whether new construction is being made thereon or not.

It appears from the submissions made on behalf of the petitioner and the private respondents that there are allegations and counter allegations made against each other. Each complain of unauthorized construction made by the other.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Commissioner, Howrah Municipal Corporation being the respondent No. 2 to depute a competent person to inspect the site in question and come to a specific finding as to whether there has been any illegal and unauthorized construction at both the premises being Nos. 281/21/B and 281/21/C, G.T. Road, Liluah, Howrah. The inspection shall be conducted upon giving prior notice to the owners/occupiers of both the premises.

Inspection shall be conducted at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

Both the parties are directed to render all possible cooperation and assistance to the officers of the Howrah Municipal Corporation at the time of inspection of the sites.

On receiving the site inspection report the aforesaid respondent shall pass a reasoned order after giving an opportunity of hearing to both the parties and communicate the same to the petitioner as well as the private respondents immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided

by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 15.02.2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)