

Court No. 24

08.04.2021

(Item No. 223)

(AB)

W.P.A. 6983 of 2021

Sahadev Mahato

Vs

The Howrah Zilla Parishad & Ors.

Mr. Ayan Banerjee

Ms. Deboshree Dhamali

Ms. Trina Sen

..... for the petitioner

Ms. Monjuli Chowdhury

Ms. Mekhla Sinha

..... for the Howrah Zilla Parishad

Mr. Utpal Maitra

..... For respondent No. 7

This is the second round of litigation between the parties. The petitioner alleges unauthorized construction by the private respondent.

The District Engineer, Howrah Zilla Parishad in compliance of the order passed by the Court in the earlier writ petition being W.P. No. 19202 (W) of 2017 passed an order on 20th December, 2018, and has come to a specific finding that the construction which has been made by the private respondent is without any sanction plan, but as the matter is very nominal in accordance with the Rules and bye-rules of the Howrah Zilla Parishad, the private respondent has been permitted to submit appropriate building plan of his existing building after taking permission from the petitioner, within six months from the date of receipt of the order. The private respondent was however directed not to proceed with any further construction in his land.

The petitioner complains that the private respondent never approached him for taking permission. It has been complained that the private respondent has constructed a drain in such a manner that the water from the drain is seeping inside the walls and the building of the petitioner is being damaged.

The petitioner made fresh representation before the respondent authorities on 18th January, 2021 and complains that the same has not been taken into consideration till date.

The learned advocate appearing on behalf of the private respondent submits that the application for obtaining the building plan could not be submitted within the time as specified in the order of the District Engineer due to unavailability of several necessary documents. The learned advocate candidly submits that no permission was sought from the petitioner in terms of the leave granted by the District Engineer, Howrah Zilla Parishad.

It has further been submitted that an application for grant of sanction plan has been submitted before the Howrah Zilla Parishad yesterday (07.04.2021).

It appears from the submissions of the parties and the documents annexed to the writ petition that admittedly the construction made by the private

respondent is unauthorized. The same is yet to be regularized by the Howrah Zilla Parishad. The petitioner has made representation before the Howrah Zilla Parishad alleging further illegal construction by the private respondent.

The instant writ petition is accordingly disposed of by directing the Howrah Zilla Parishad, being the respondent No. 1 herein to take necessary steps for consideration of the representation made by the petitioner, strictly in accordance with law, at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order. The aforesaid respondent shall afford an opportunity of hearing to the petitioner as well as the private respondent prior to taking a decision in the matter.

In the event, the respondent authority is of the opinion that the drain which has been constructed by the private respondent is damaging the property of the petitioner, then necessary direction shall be passed by the said authority for removal of the same.

Till a decision is taken by the respondent No. 1 herein, no further construction shall be made by the private respondent in the premises in question.

The private respondent shall take steps to ensure that the drain which appears to be open ended

is not used in any manner so as to damage the property of the writ petitioner.

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.)