

14.06.2021
SL No. 18
Court No. 24
(P.M.)

WPA 10556 of 2021

Goutam Samanta & Ors.
Vs
Howrah Municipal Corporation & Ors.
(Via Video Conference)

Mr. Partha Pratim Mukhopadhyay
... for the petitioners

Mr. Sandipan Banerjee
... for the Howrah Municipal Corp.

Mr. Sayantan Seth,
Mr. Tanweer J. Mondal
... for the respondents.

Affidavit of service filed in Court is taken on record.

Petitioners allege illegal and unauthorised construction by the private respondent in the Holding No. 41/1, Baje Shibpur Road, Ward No. 32, P.S. Shibpur, District Howrah – 711102.

Petitioners obtained information under the Right to Information Act, 2005 from the Howrah Municipal Corporation in September, 2019 that sanction has been granted for construction of G+2 storied building in the aforesaid premises.

Petitioners allege that the private respondent is making construction beyond the sanctioned plan without leaving the mandatory side open spaces and constructing additional floors. A representation was made before the respondent authorities by letter dated 18th July, 2019 followed by reminders dated 18th November, 2019 and 19th April, 2021.

The learned advocate representing the private respondent denies the allegation made by the petitioners.

The learned advocate representing the Howrah Municipal Corporation submits that in view of the lockdown imposed by the State the representatives of the Howrah Municipal Corporation could not take steps to enquire or look into the complaint lodged by the petitioners.

It appears from records that the initial representation was made by the petitioners in July, 2019 followed by reminders dated November, 2019 and April, 2021. There was no lockdown in the year 2019 and the Corporation ought to have taken prompt steps on receipt of the complaint from the petitioners.

Petitioners have made categorical allegation that construction was being made in violation of the plan sanctioned by the Howrah Municipal Corporation. It is incumbent upon the Howrah Municipal Corporation to enquire into the complaint and take necessary steps thereto.

Petitioners complain that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

As it appears that the representations of the petitioners objecting to the illegal and unauthorized construction are 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 respondent no. 1, Howrah Municipal Corporation, to consider and dispose of the representations made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioners, 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 unauthorized 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 petitioners.

Petitioners are directed to forward a copy of the representation dated 19th April, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 10556 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(**Amrita Sinha, J.**)