

22.07.2021
Sl. No.18
srm

W.P.A. No. 11220 of 2021

Srikanta Srimani & Ors.

Vs.

**The Municipal Commissioner,
Howrah Municipal Corporation & Ors.**

Mr. Biswajit Chatterjee,
Md. Shakir,

...for the Petitioners.

Mr. Sandipan Banerjee,
Mr. Ankit Surekha

...for the KMC.

Mr. Subir Banerjee

...for the Respondent No.7.

Mr. Partha Pratim Roy,
Ms. Rajlakshmi Ghata

...for the State.

The writ petition has been filed challenging inaction on the part of the Howrah Municipal Corporation. The petitioners contend that the respondent No.7 has constructed a G+5 residential building at Premises No.6/2, Dr. Raj Kumar Kundu Lane, P.S. Shibpur, Howrah-711 102.

Attention of this Court is drawn to Annexure P-1, which is a letter issued by the Executive Engineer, Building Department, Howrah Municipal Corporation dated September 23, 2019. From the said communication, it appears that the Executive Engineer, Building Department intimated the petitioner No.1 that a stop work notice was issued in respect of the said building as external deviations from the sanctioned plan had been found. It was also stated that self-demolition

letter was issued on July 11, 2019 by the Assistant Engineer, Borough-V, Howrah Municipal Corporation asking the respondent No.7 to demolish the unauthorised construction.

It is an admitted position that the Howrah Municipal Corporation having held an inspection earlier had found unauthorised construction and had taken steps in accordance with law.

Mr. Subir Banerjee, learned Advocate appearing on behalf of the respondent No.7, submits that the construction has not been extended beyond G+2. He further submits that M/s. Swastika Construction has taken over from the erstwhile builder and as such any deviation that may have been done, was not at the instance of M/s. Swastika Construction. He prays before this Court that a joint inspection should be made in the presence of all the parties by the Howrah Municipal Corporation, so that the deviation and/or unauthorised construction which had taken place prior to the respondent No.7 having stepped into shoes of the erstwhile builder, can be brought on record and assessed by the respective parties. He further submits that the law permits the person responsible to submit an "as made plan" and the competent authority of the Howrah Municipal Corporation has the power vested under the law, to regularize minor irregularities as per the "as made plan".

Mr. Sandipan Banerjee, learned Advocate appearing on behalf of the Howrah Municipal Corporation, submits that as per the previous inspection, unauthorised construction and/or deviations have been found and steps have also been taken by the Howrah Municipal Corporation by asking the builder to 'stop work'. A further notice asking the builder to demolish the unauthorised portion was also issued. Yet, the erst-while builder did not follow the instructions of the Howrah Municipal Corporation and thereafter the respondent No.7 took over as the builder.

Be that as it may, as the respondent No.7 has recently been inducted as a builder, in my view, a joint inspection should be held in the presence of the respective parties by the competent authority of the Howrah Municipal Corporation. The minutes of the inspection shall be signed by all the parties. The report of the inspection shall be handed over to the respective parties. A hearing shall be given and a reasoned decision shall be passed by the competent authority of the Howrah Municipal Corporation. If it is found that there are unauthorised constructions in the premises then, proceedings shall be initiated in accordance with law by the Howrah Municipal Corporation. Upon hearing all the parties, a reasoned decision shall be communicated to the parties. With regard to the prayer for submission of the "as made plan" by

the respondent No.7, this Court is of the opinion that if any “as made plan” is submitted by the respondent No.7, the competent authority of the Howrah Municipal Corporation shall consider and dispose of the same during the hearing given to the parties, strictly in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)