

03.12.2021
Court No. 19
Item no.03
CP

WPA 14168 of 2021

Mrs. A. K. Augustine

Vs.

The Howrah Municipal Corporation & ors.

Mr. Anirban Ghosh

....for the petitioner.

Mr. Sandipan Banerjee

Mr. Ankit Sureka

....for the H.M.C.

Affidavit of service is taken on record.

The Howrah Municipal Corporation (hereinafter referred to as the corporation), is represented. Respondent Nos. 5, 6 and 7 have refused service. The postal articles which have returned with the endorsement 'Refused' have been filed in court today. Refusal is good service. Hence the matter is being taken up in the absence of the respondent nos. 5 to 7.

The petitioner is a flat owner of a multi-storeyed building named as 'Swarnabitan Apartment'. It is alleged that the respondent no. 5 as the developer constructed the building. After completion of the construction, the possession of the flats were given to the respective owners. The petitioner owns flat nos. 3A and 3B on the third floor

and is residing thereat. The building concerned has been assessed by the corporation for the purpose of payment of property tax. That the flat owners/residents wanted to form an association and it has been pleaded that in order to form an association under the West Bengal Apartment Ownership Act, 1972, a completion certificate from the corporation would be necessary. It is alleged that such completion certificate was not obtained by the developer and, accordingly, the petitioner applied before the corporation for supply of the completion certificate on behalf of the members of the said flat who have allegedly authorized the petitioner to act on their behalf.

Mr. Banerjee, learned advocate appearing on behalf of the corporation, submits that he is yet to obtain instructions as to why the completion certificate was not granted to the said apartment. According to him, if there were discrepancies between the construction and the sanction plan, a completion certificate would not be granted unless the unauthorized constructions are demolished.

However, as the application of the petitioner before the corporation is still pending, this court is of the opinion that instead of going into the disputes, with regard to the grant of the completion certificate, the proper course would be to direct the appropriate

authority of the Howrah Municipal Corporation to dispose of the application of the petitioner being Annexure – P5 at page 58 of the writ petition in accordance with law. If there are any discrepancies, then the same shall be intimated to the petitioner. A reasoned decision shall be passed upon hearing the other interested parties as also the petitioner, and the respondent Nos. 5 to 7. The said decision shall be communicated to the parties.

It is made clear that if the authorities upon inspection detect that the completion certificate cannot be granted for certain reasons, then such reasons shall be disclosed in the reasoned order.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)