

21.9.2021
Court No. 19
Item no.4
sn

WPA No.23655 of 2019

SUNIL CHOWDHURY
VS.
THE HOWRAH MUNICIPAL CORPORATION & ORS.
(via video conference)

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das ...for the Petitioner

Ms. Lipika Chatterjee
Md. A.R.J. Kabir ..for the State

Mr. Animesh Mukherjee
Mr. Abdul Alim ..for the respdts.7-9

Mr. Sandip Banerjee
Mr. Ankit Sureka ..for the HMC

The petitioner has alleged that the respondent nos. 7 to 9 have been granted a sanction to their building plan by the Howrah Municipal Corporation illegally, being misled by a misrepresentation that the said respondents were owners in possession of holding no. 60, Kazi Sabibul Alam Lane, previously known as Kazi Bagan Lane, within Ward No.35 under Borough No. V, Police Station Shibpur, District Howrah.

The learned advocate for the petitioner submits that the respondent nos. 7 & 8 filed a Title Suit No. 16 of 2013 before the learned Civil Judge (Junior Division) 2nd Court, at Howrah for declaration that they were thika tenants in respect of the property in question. The petitioner contested the suit by filing a counterclaim for eviction of the said respondents,

who, according to the petitioner, were illegally occupying the preemies. The suit was dismissed and the counterclaim was decreed.

The respondent nos.7&8 were ousted from the premises by the order of the learned executing court. Another suit was filed in Title Suit No.57 of 2018 by the respondent nos. 7&8 for declaration of title and permanent injunction. The petitioner filed an application under Order 7 Rule 11(d) of the Code of Civil Procedure. The application was allowed and the plaint was rejected.

It is alleged by the petitioner that in the above backdrop, the Howrah Municipal Corporation could not have granted the sanction to the building plan in favour of the respondent nos. 7&8 thereby allowing them to construct on the premises in question. The petitioner also submits that the corporation records with regard to the assessment of the property taxes has also been corrected in his name.

Mr. Mukherjee, learned advocate appearing on behalf of the respondent nos. 7-9 submits that the issue with regard to thika tenancy cannot be decided in this writ petition .He further submits that the sanction plan was granted long time ago and the records of the corporation are all in favour of the respondent nos.7&8.

This Court finds that the allegation of the petitioner should be considered by the appropriate authority of the Howrah Municipal Corporation in terms of Section 175(B) of the Howrah Municipal Corporation Act, 1980.

This Court has not gone into the merits of the claims and counterclaims of the parties.

The competent authority of the Howrah Municipal Corporation shall dispose of the complaint of the petitioner dated July 15, 2019 and July 25, 2019 in accordance with law upon giving an opportunity of hearing to all the parties to contest the same. It is made clear that the parties shall be allowed to make their submissions and submit all the documents in favour of their contentions. A reasoned order shall be passed and communicated to all concerned.

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

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)