

Court No. 24

19.02.2021

(Item No. 12)

(AB)

W.P.A 8011 of 2020

Anup Chowdhury

vs

The Howrah Municipal Corporation & Ors.

Mr. Sardar Amjad Ali

Ms. Masum Ali Sardar

...for the Petitioner

Mr. Santanu Kumar Mitra

Ms. Joyee Maity

..... For the State

Mr. Sandipan Banerjee

Mr. Ankit Sureka

..... for Howrah Municipal Corpn.

Mr. Aniruddha Mitra

Mr. Anirban Ghosh

..... for private respondent

The petitioner alleges illegal and unauthorized construction made by the private respondents on the premises Nos. 10 and 11, Chowdhury Para Lane, Ward No. 44 under the Howrah Municipal Corporation.

It has been submitted that unauthorized construction has been made over the public drain. The petitioner alleges that the representation filed by the petitioner objecting to such unauthorized construction has not been considered by the Howrah Municipal Corporation till date.

The learned advocate for the private respondents denies that there has been any unauthorized construction. The private respondents raise an issue of maintainability of the writ petition by

the petitioner. It has been submitted that there is no allegation of encroachment of the private land of the petitioner. The writ petition has not been filed as a Public Interest Litigation and accordingly the same ought not to be maintainable.

The learned advocate representing the Howrah Municipal Corporation submits that on receipt of the complaint of the petitioner, an inspection was conducted at the site and certain unauthorized construction was detected. The Howrah Municipal Corporation will take necessary steps in accordance with law to deal with the illegal and unauthorized construction made by the private respondents.

The submission made on behalf of the private respondent No. 7 challenging the locus standi of the petitioner in filing this writ petition does not appeal to the Court. The petitioner being a responsible citizen of the country is always free to draw the attention of the Municipal Authority regarding any unauthorized construction that is being carried on within the jurisdiction of the said Municipality. The petitioner being the owner of the adjacent premises has drawn the attention of the Howrah Municipal Corporation by filing a representation on 4th September, 2020. The Municipality has inspected the site and has come to a finding that there has been unauthorized construction by the private respondents in the said plot of land.

As it appears that an inspection has already been conducted by the Howrah Municipal Corporation in response to the complaint filed by the petitioner, accordingly it will be appropriate to direct the Howrah Municipal Corporation to conclude the proceedings to deal with the unauthorized construction made by the private respondents, strictly in accordance with law.

The writ petition is accordingly disposed of by directing the respondent no. 1, Howrah Municipal Corporation to take steps to deal with the unauthorized construction, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, 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 petitioner, immediately thereafter.

As the Howrah Municipal Corporation has already come to a definite finding that there has been illegal construction over the said plot of land and the petitioner has made submission that the said construction is being carried on at a very fast pace accordingly, the private respondent being the respondent No. 7 herein is restrained from making

any further construction over the said plot of land till the decision is taken by the Howrah Municipal Corporation in response to the complaint filed by the petitioner.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)