

19.01.2021
S/L No. 07
Court No.24
s.biswas

WPA 8092 of 2020

Dynamic Infracon Pvt. Ltd. & Anr.
Vs.
Howrah Municipal Corporation & Ors.
(Through Video Conference)

Mr. Jishnu Chowdhury
Mr. Dipak Dey
Mr. Yash Vardhan Deora

... .. for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Surekha

... .. for the Howrah Municipal Corporation

The petitioners are aggrieved by the order of demolition dated 16th September, 2020, whereby the petitioners have been directed to demolish the unauthorised portion of the premises being 406, G. T. Road, P.O. & P.S. Bally, Ward No. 53.

According to the petitioners, the impugned notice does not specifically mention the unauthorised construction that has been carried on. The particulars given are absolutely vague. The notice dated 3rd September, 2020 which was issued to the petitioners for stopping work mentions that the petitioners made construction in some portion of the building (G+2) by deviating from the sanction plan (horizontally). No details of the alleged deviation have been revealed.

The petitioners rely upon several judgments of the Court on the point that unless and until the deviation is specifically mentioned, the notice of demolition is bad.

The learned advocate representing the Howrah Municipal Corporation submits that the petitioners in the

writ petition at paragraph nos.12 and 16 have admitted that there has been a deviation. The Corporation contends that the petitioners are well aware of the deviation that they have made and accordingly, the notice was issued for demolition of the portion, which was constructed in deviation of the sanction plan.

Be that as it may, it appears from the notice to stop work followed by the notice of demolition that the illegal and unauthorised construction has not been categorically mentioned therein. In the absence of the illegal portions being mentioned clearly, it may be difficult for the petitioner to identify the area where the illegal construction has been made in deviation of the sanction plan.

In view of the above, the instant writ petition being WPA 8092 of 2020 is disposed of by directing the Howrah Municipal Corporation to intimate the petitioners the portions which have been constructed in the deviation of the sanction plan. Till such time the illegal portions are categorically intimated to the petitioner, the Howrah Municipal Corporation shall not proceed with the demolition notice issued on 16th September, 2020.

It goes without saying that the petitioners shall not make any further construction in deviation of the sanction plan.

Prior to proceeding with the demolition order, the Howrah Municipal Corporation shall afford an opportunity of hearing to the petitioner.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Amrita Sinha, J.)