

Item No. 21

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

12.01.2021
Ct-24

W.P.A.8388 of 2020
Sri Munna Sonkar
v.
The Howrah Municipal Corporation & Ors.

Mr. Chittapriya Ghosh
Mr. Kokal Singh
... for the petitioner.

Mr. Himadri Sikhar Chakraborty
Ms. Debdooti Dutta
... for the State.

Mr. Sandipan Banerjee
Mr. Ankit Surekha
... for HMC.

None appears on behalf of the private respondents despite service.

The petitioner alleges that the private respondents are making construction in the Premises No. 1/1, I.C. Bose Road, Howrah- 711101 without any sanctioned plan.

The learned advocate representing the Howrah Municipal Corporation submits that the petitioner has filed a Title Suit against the private respondents as well as the Howrah Municipal Corporation before the Court of the learned Civil Judge (Junior Division) at Howrah. The said Title Suit No. 539 of 2020 is pending

consideration before the learned Court wherein prayer has been made for restraining the respondents from demolishing the structure of the suit property. The learned Court by an order dated August 29, 2020 restrained the private respondents from dispossessing the petitioner from the suit property without due process of law.

The learned advocate representing the Howrah Municipal Corporation, upon instructions, submits that plan has already been sanctioned in respect of the aforesaid premises.

The learned advocate representing the State respondents submits, upon instructions, that necessary direction has been given to the Executive Engineer of the Howrah Municipal Corporation (Building Department) to enquire into the matter.

According to the provisions of Section 177(5) of the Howrah Municipal Corporation Act, 1980 no Court shall entertain any suit, application or proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of the section.

The prayer of the petitioner is for demolition of the unauthorized construction, which has been made without any sanction plan.

It appears from records that pursuant to the complaint lodged by the petitioner the Howrah Municipal Corporation already initiated an enquiry proceeding but thereafter did not conclude the same. The petitioner filed a further representation by letter dated September 15, 2020 which is pending consideration at the end of the Howrah Municipal Corporation.

As it appears that the proceeding has already been initiated by the Howrah Municipal Corporation, the Court thinks it fit to dispose of the instant writ petition by directing the Howrah Municipal Corporation to conclude the enquiry proceeding already initiated, in accordance with law, within a period of five months from the date of communication of a copy of this order.

The Commissioner shall take steps in the matter strictly in accordance with law upon giving notice to the petitioner and all other necessary parties.

The reasoned order shall be communicated to the petitioner and all the necessary parties immediately upon conclusion of the said proceeding.

WPA 8388 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)