

Court No. 24

05.03.2021

(Item No. 21)

(AB)

W.P.A 8834 of 2020

Smt. Tanusree Bhattacharya & Ors.

vs

The State of West Bengal & Ors.

Mr. Dipankar Pal

Mr. Joy Chakraborty

Mr. Sandip Dinda

..... for the petitioners

Mr. Tanmoy Mukherjee

Mr. Souvik Das

Mr. K. Raihan Ahmed

..... for respondent Nos. 6 & 7

Mr. Sandipan Banerjee

Mr. Ankit Sureka

.... For Howrah Municipal Corporation

Affidavit of service filed in Court today is taken on record.

The grievance of the petitioners is that unauthorized construction is being made in the premises Nos. 48 and 49, Dayal Banerjee Road, P.O. and P.S. Shibpur, District – Howrah.

The specific allegation of the petitioners is that the construction has been made in such a manner that the common passage and the public drain has been blocked by the private respondents at the time of making construction.

The learned advocate representing the private respondent Nos. 6 and 7 submits that the construction is being made strictly in accordance with the plan that has been sanctioned by the Howrah Municipal Corporation.

The learned advocate appearing on behalf of the Howrah Municipal Corporation submits, upon instructions, that a plan for three storied residential building has been sanctioned on 29th September, 2014 in favour of Anand Prasad Shaw showing 3.048 metres wide passage on the South. On receipt of the complaint, the Sub Assistant Engineer of the Howrah Municipal Corporation inspected the premises and it was found that unauthorized construction was going on in the ground floor deviating from the sanctioned plan for which a stop work notice was served. A show cause notice was also served upon the offender with a chance of hearing, which took place on 29th September, 2020.

As there is a prima facie finding by the Howrah Municipal Corporation that there are unauthorized construction in the said premises accordingly, the Howrah Municipal Corporation is directed to take steps against such unauthorized construction, in accordance with law, within a period of twelve weeks from the date of communication of a copy of this order.

As the Howrah Municipal Corporation has already issued a notice to stop work, the Howrah Municipal Corporation shall ensure that no further construction is being carried on in the said premises

in deviation of the sanction plan and the stop work notice.

The Inspector-in-charge of the Shibpur Police Station is directed to ensure that the stop work order passed by the Howrah Municipal Corporation is strictly complied with by the person responsible for making construction.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private civil dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 05.10.2020 to the aforesaid respondent at the time of communicating the order of the Court.

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

(Amrita Sinha, J.)