

Court No. 24

12.03.2021

(Item No. 18)

(AB)

W.P.A 9480 of 2020

Sri Amar Kumar Sonkar

vs

The State of West Bengal & Ors.

Mr. Atarup Banerjee

Mr. Mrityunjoy Chatterjee

Mr. G. N. Imrohi

Mr. Susnigdho Bhattacharyya

..... for the petitioner

Mr. Debashis Ghosh

Mr. Sayan Sinha

Mr. Manik Swarnokar

..... for respondent Nos. 8 & 9

Mr. Sandipan Banerjee

Mr. Ankit Sureka

..... for Howrah Municipal Corpn.

The petitioner alleges illegal and unauthorized construction by the private respondents in the holding No. 21, Dr. Abani Dutta Road, Ward No. 15, Police Station Golabari, Howrah – 711 106 under the Howrah Municipal Corporation.

The petitioner, under the Right to Information Act, obtained information from the Howrah Municipal Corporation, that plan has been sanctioned for construction of a G+4 storied residential building in the said premises. It has also been intimated to the petitioner that the building is being made in deviation of the plan sanctioned.

The allegation of the petitioner is that the private respondents are constructing a G+9 storied building over the said plot of land and the construction is nearly over.

The petitioner submits that the representation filed by him against such illegal and unauthorized construction is kept pending at the end of the Howrah Municipal Corporation till date.

The learned advocate representing the private respondents submits that the owners of the premises in question have not been impleaded as party respondents in the instant writ application. It has further been submitted that the private respondents have filed an application for sanction of a revised plan for sanction of the additional floors before the Howrah Municipal Corporation and the same is kept pending.

The learned advocate representing the Howrah Municipal Corporation submits that there is admittedly unauthorized construction in the said premises. The private respondents have applied for sanctioning a revised plan only in the month of January, 2021.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent No. 3, being the Commissioner, Howrah Municipal Corporation to consider and dispose of the representation made by

the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties within a period of at the earliest, but positively within a period of six months 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 immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

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

The petitioner is directed to forward a copy of the representation dated 8th January, 2020 followed by reminders dated 24th January, 2020 and 8th October, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

As there is already a prima facie finding of the Howrah Municipal Corporation that there are massive unauthorized constructions in the said premises accordingly, the private respondents are restrained from carrying on any further construction in the said premises till a decision is taken by the aforesaid respondent upon consideration of the objection filed by the petitioner. The Inspector-in-Charge, Golabari Police Station is directed to ensure that the restraint order passed herein above is strictly complied with by the private respondents.

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

(Amrita Sinha, J.)