

Court No. 24

12.03.2021

(Item No. 19)

(AB)

W.P.A 9498 of 2020

Ajit Kumar Nandy @ Ajit Nandi

vs

The State of West Bengal & Ors.

Mr. Subrata Bhattacharjee

Mr. Mohit Kumar Dey

Mrs. Swapna Paul

Mr. Parimal Chandra Acharya

..... for the petitioner

Mr. Himadri Sikhar Chakraborty

Mr. Syed Masiur Rahaman

..... for the State

Mr. Sandipan Banerjee

Mr. Ankit Sureka

..... for Howrah Municipal Corpn.

The petitioner alleges illegal and unauthorized construction by the private respondents in the premises No. 65/4, Ashu Bose Lane, Howrah – 711 101, Ward No. 20 under the Howrah Municipal Corporation.

The petitioner was intimated by the Howrah Municipal Corporation by a communication dated 28th September, 2020 that no proposal for sanction of building plan for the aforesaid holding was submitted and the question of sanction of building plan in the aforesaid premises does not arise.

The petitioner complains that, even though there is no building plan, the private respondents are merrily making construction thereon.

He made representation before the Commissioner of Howrah Municipal Corporation by a letter received by the office of the Howrah Municipal

Corporation on 5th October, 2020. The same has not been considered by the authority till date.

The learned advocate representing the Howrah Municipal Corporation submits that necessary direction may be passed upon the Howrah Municipal Corporation to act in accordance with law.

None appears on behalf of the private respondents despite service. Affidavit of service is already on record.

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. 2, 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 including the petitioner, 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, including the petitioner, 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.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner 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 5th 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 no plan has been sanctioned in respect of the said premises, the private respondents are restrained from carrying on any further construction over the said plot of land till a decision is taken by the aforesaid respondent upon

consideration of the objection filed by the petitioner. The Inspector-in-Charge, Howrah Police Station is directed to ensure that the restraint order passed herein above is strictly complied with by the private respondents.

WPA 9498 of 2020 is disposed of.

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

(Amrita Sinha, J.)