

30.03.2022
Court No. 19
Item No.24
sn

WPA 848 of 2022

Namita Mukherjee
Vs.
Howrah Municipal Corporation & Ors.

Mr. Haradhan Banerjee
Mr. Animesh Das
Mr. Amitava Painfor the petitioner

Sk. Mujibar Rahaman
Ms. Rupsa Chakraborty ..for the State

Mr. Sandipan Banerjee
Mr. Ankit Sureka ..for the HMC

Mr. Kamalendu Ghose
Mr. Raja Ghosh ..for the respondent no,.7

The petitioner has raised some objections with regard to the constructions of the respondent no.7 on Dag Nos. 319 and 322 pertaining to Khatian no. 680 within Ward No. 47 of the Howrah Municipal Corporation. The allegation is that such construction has been made without any sanction.

Mr. Ghose, learned advocate appearing on behalf of the respondent no.7 submits that no illegal construction has been raised.

Mr. Sandipan Banerjee, learned advocate appearing on behalf of the Howrah Municipal Corporation submits that preparation has been made to make an enquiry into the matter and dispose of

the complaints of the petitioner, in accordance with law.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Howrah Municipal Corporation to act and proceed in accordance with law and dispose of the complaints lodged by the petitioner alleging such unauthorized construction.

While disposing of such complaints, the competent authority of the Howrah Municipal Corporation shall adopt the following procedure:-

a) An inspection of the concerned premises shall be made. Such inspection shall be held in the presence of the petitioner and the respondent no.7 within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.7. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent no.7. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.

f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)