

03
20.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 1408 of 2021

**Santu Ghosh
-versus
The State of West Bengal & Ors.**

**Mr. Palash Mukherjee.
...For the Petitioner.**

**Ms Sipra Majumdar,
Ms. Prativa Ghatak.
...For the State.**

**Mr. Sandipan Banerjee,
Mr. Sobhan Majumder,
Mr. Ankit Sureka.
...For HMC.**

None appears on behalf of the person responsible for making unauthorized construction.

When the matter was initially taken up for consideration by this Court on 22nd March, 2021, the Court recorded the submission of the learned advocate appearing for the Howrah Municipal Corporation that proceedings have been initiated under Section 177 of the Howrah Municipal Corporation Act, 1980 and Golabari Police Station Case No. 471 of 2019 has been initiated.

Today, when the matter is taken up for consideration, learned advocate appearing for the

Howrah Municipal Corporation submits that no Pucca construction has been made at the disputed site.

It appears from the documents annexed to the writ petition that the representation filed by the petitioner alleging illegal and unauthorized construction is yet to be disposed of.

The petitioner has categorically submitted that the persons responsible are making construction on the holding No.50, Tripura Roy Lane, Salkia, Howrah-711106.

It is alleged that the construction of a multistoried building is being made by filling up the catchment area of a water body.

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 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 within a period of three 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 unauthorized 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 25th November, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

The concerned officer of the Howrah Municipal Corporation is directed to conduct a site inspection upon prior notice to the petitioner and the person responsible for making construction and thereafter, take a decision in the matter.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)