

10.03.2022
Sl. No.15
srm

W.P.A. No. 1441 of 2022

Shoaib Soobashah

Versus

Howrah Municipal Corporation & Ors.

Mr. Sounak Bhattacharyya,
Mr. Sumitava Chakraborty

...for the Petitioner.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka

...for the Howrah Municipal Corporation.

Ms. Sima Adhikari,
Ms. Kakali Naskar

...for the State-respondents.

Mr. Subir Pal

...for the Respondent No.9/
Damodar Valley Corporation.

Affidavit of service is taken on record.

The police report, filed by the State-respondents, is
taken on record.

The petitioner alleges that the respondent No.9, i.e.
Damodar Valley Corporation has constructed a boundary
wall over and above the permissible height, thereby,
violating the building rules. Such boundary wall has been
constructed on LR Dag No.80 pertaining to Khatian No.20,
Mouza-Shibpur, Sheet No.132, District-Howrah.

Mr. Pal, the learned Advocate appearing on behalf of the respondent No.9/Damodar Valley Corporation, submits that the statutory authority did not raise an illegal construction. The boundary wall was constructed on the land of the Corporation and in accordance with law. The law permitted such construction of boundary wall up to a permissible height and sanction from the Howrah Municipal Corporation was not required in this case.

As the factual dispute with regard to the height of the boundary wall cannot be ascertained by the writ Court, this Court is of the view that the Howrah Municipal Corporation must proceed to dispose of the complaint of the petitioner, which is annexure P-1 at page 11 of the writ petition, in accordance with law, by adhering to the following procedures:-

- (a) The competent authority of the Howrah Municipal Corporation shall cause an inspection of the plot in question in question in the presence of the petitioner and the respondent No.9 in order to ascertain whether the boundary wall has been constructed as per the provisions of the Act.
- (b) A copy of the inspection report shall be handed over to the respective parties.

- (c) The petitioner as also the representative of the respondent No.9 shall be given a hearing.
- (d) The interested persons shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the time of hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention, the entire proceedings shall be reached to its logical conclusion and the Corporation will be at liberty to proceed in accordance with law, if any unauthorised construction is detected.
- (g) If the construction is continuing, then interim measures shall be taken, in case it is found that the construction is *prima facie* above the permissible height,

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

This Court has not gone into the merits of the claims and counterclaims of the parties and all points are left open for a decision by the Corporation.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)