

Item No. 62

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

25.07.2022

Ct-24

WPA 3259 of 2022
Sri Prasanta Maity
v.
The Howrah Municipal Corporation & Ors.

Mr. Animesh Paul
... for the petitioner.

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit Sureka
... for the Howrah Municipal Corporation.

Leave is granted to the learned advocate-on-record of the petitioner to rectify the designation of the respondent no. 3 in the cause title of the writ petition.

The petitioner complains of illegal and unauthorized construction of a G+4 storied building at the Premises No. 157/A, Mohiary Road, Ward No. 47, Borough-VII, Police Station-Jagacha, Howrah-711 104 under the jurisdiction of the Howrah Municipal Corporation.

According to the petitioner sanction was granted by the Howrah Municipal Corporation for construction of a G+2 storied building. The private respondents have constructed two additional floors without obtaining any sanction from the Howrah Municipal Corporation.

The petitioner filed objection through his learned advocate in February 2022 and alleges that the same has not been taken up for consideration till date.

None appears on behalf of the private respondents despite service.

Affidavit-of-service filed in Court today is taken on record.

Learned advocate representing the Howrah Municipal Corporation submits, upon instruction that, necessary steps will be taken by the Corporation to deal with such unauthorized construction.

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 Assistant Engineer in-Charge, (Building) 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 February 8, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

On July 11, 2022 when the matter was taken up for consideration, learned advocates appeared on behalf of the Howrah Municipal Corporation. Due to

inadvertence their appearance was not recorded in the order sheet dated July 11, 2022.

Be it recorded that the Howrah Municipal Corporation was duly represented before this Court on July 11, 2022.

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

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(Amrita Sinha, J.)