

10.03.2022
Court No. 19
Item no.29
CP

WPA 3650 of 2022

Sayantan Chakraborty
Vs.
Howrah Municipal Corporation & Ors.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Ms. D. Ganguly
Mr. K. Bhattacharya

..for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka

....for the H.M.C.

Mr. Somnath Roy Chowdhury

.....for the respondent nos. 6 & 7.

Mr. N. C. Bihani
Mr. J. Basu

.....for the State respondents.

The petitioner alleges that the respondent nos. 6 and 7 have made some unauthorized constructions on Holding No. 6/1/1, Sarat Chatterjee Road, P.S. – Chatterjee Hat, District – Howrah. The allegations are two-fold. First, that the construction has been made without a building plan. Second, that the constructions are also in violation of the rules and the mandatory side spaces as required by law, have not been kept.

Mr. Roy Chowdhury, learned advocate appearing on behalf of the respondent nos. 6 and 7,

submits that the Howrah Municipal Corporation (hereinafter referred to as 'the corporation'), had granted the sanction for construction on the aforementioned holding. That some deviations had been detected by the corporation. The said respondents demolished the unauthorized portions and intimated such fact to the Assistant Engineer, Borough – VI of the corporation by a letter dated March 25, 2019. Thereafter, the Assistant Engineer, Borough – VI of the corporation, issued a letter dated March 30, 2019, allowing the petitioner to construct as per the sanction plan. All these documents have been handed over to the court.

As there are allegations of unauthorized construction and the corporation is yet to inspect the premises to ascertain the facts, the writ petition is disposed of with a direction upon the competent authority of the corporation to act and proceed in accordance with law on the basis of the allegations made by the petitioner by adhering to the following procedure:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent nos. 6 & 7.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent nos. 6 & 7.
- d) A hearing shall be given to the petitioner and the respondent nos. 6 & 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.
- e) 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.
- f) The respondent nos. 6 and 7 shall construct strictly in accordance with the plan and if prima facie unauthorized construction is detected, interim measures will be taken by the corporation.

The court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided independently.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)