

22
27.04.2022
TN

WPA No. 5644 of 2022

Ajay Kumar Pandey and others
Vs.
The Howrah Municipal Corporation and others

Mr. Rahul Karmakar,
Mr. Sourajit Dasgupta,
Mr. Rajesh Upadhyay,
Ms. Surabita Biswas

.... for the petitioners

Mr. Sandipan Banerjee,
Mr. Ankit Surekha,
Ms. Kalpita Paul

.... for the Howrah
Municipal Corporation

Mr. Narayan Ch. Bhattacharyya,
Ms. Sujata Ghosh

.... for the State

Affidavit-of-service filed in court today be kept
on record.

Despite service, none appears for the private
respondent no.11 although the petitioners, State and
the Howrah Municipal Corporation are represented
through counsel.

On the prayer of the learned Advocate for the
petitioners, leave is granted to the learned Advocate-
on-record for the petitioners to carry out the
necessary amendment to the cause title of the writ

petition, insofar as the designation of the respondent no.7 is concerned, during the course of the day.

Learned counsel for the petitioners contends that, on the complaint lodged by the petitioners regarding illegal construction being made by the private respondent no.11, the Howrah Municipal Corporation specifically observed and came to the finding, in its notice issued to the respondent no.11, that there had been unauthorised construction, asking the respondent no.11 to demolish and/or take remedial steps in that regard.

However, no further action has yet been taken by the Municipality.

Learned counsel for the State submits a report, which be kept on record.

Learned counsel appearing for the Howrah Municipal Corporation categorically submits that the said Corporation has already initiated proceedings under Section 177 of the Howrah Municipal Corporation Act, 1980 by issuance of the notice as indicated by the petitioners. Moreover, a subsequent notice in similar light has also been issued to the respondent no.11 by the Howrah Municipal Corporation.

Unless the Corporation came to the preliminary finding that there had been unauthorised/illegal

construction, there would not be any occasion to issue such notices, it is submitted.

Be that as it may, it is evident from the materials annexed to the writ petition that the notice under Section 177 was given to the respondent no.11 by the Howrah Municipal Corporation as long back as on March 10, 2021.

Even if subsequent notice/notices have been issued to the respondent no.11, it is the case of neither of the parties that demolition work has yet been undertaken by the respondent no.11.

In such view of the matter, it is the incumbent duty of the Howrah Municipal Corporation to take immediate steps in furtherance of its notice/notices to the respondent no.11 by starting the necessary demolition work in respect of the disputed building.

Accordingly, WPA No.5644 of 2022 is disposed of by directing the respondent no.7, the Assistant Engineer-in-charge, Building Department, Howrah Municipal Corporation to undertake demolition work in respect of the disputed premises by commencing the paraphernalia regarding such procedure as expeditiously as possible, positively within May 20, 2022 and to complete such demolition work as expeditiously thereafter as possible.

In the event the Howrah Municipal Corporation personnel face any obstruction in doing so from any quarter, including the respondent no.11, it will be open to the said personnel to approach the respondent no.9, the Officer-in-Charge, Golabari Police Station to render adequate assistance in such regard. If so approached, the respondent no.9 shall provide such assistance.

The respondent no.11 shall be restrained from making any further construction till the demolition work is commenced at the behest of the Howrah Municipal Corporation.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)