

ML 129
13.07.2022
d.p.

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

W.P.A. 7391 of 2021

**Smt. Nirmala Dubey & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Prabir Adhya,
Mr. Avijit Mukherjee.
...For the Petitioners.**

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

Affidavit-of-service along with the envelopes which have returned unserved with the postal endorsement 'refused and unclaimed' filed in Court today is taken on record.

The petitioners allege illegal and unauthorized construction at the instance of the private respondent over the R.S. Dag No.88 and 88/1066, L.R. Dag No. 113 and 114 under Khatian No.828/2 and 5608 under Mouza-Uttar Baksara, P.S.-Santragachi, Ward No. 46, within the jurisdiction of Howrah Municipal Corporation.

The petitioners submit that after filing the complaint before the Howrah Municipal Corporation, the Assistant Engineer-in-Charge, Borough-VII of the Corporation issued notices of hearing on diverse dates and hearing was held at least on three occasions in the

year 2019 but thereafter final order has neither been passed nor communicated to the petitioners.

The petitioners filed representations before the respondent authorities and allege that none of the representations have been taken into consideration till date.

The petitioners pray for a direction upon the respondent authorities to intimate the petitioners the fate of the hearing held by the Howrah Municipal Corporation on 07/08/2019, 29/08/2019, 07/09/2019 and 30/09/2019.

None appears on behalf of the private respondent and the Howrah Municipal Corporation.

As it appears from the submissions made on behalf of the petitioners and the documents annexed to the writ petition that in response to the complaint filed by the petitioners, hearing has already been conducted but final order is yet to be passed, accordingly, the instant writ petition is disposed of by directing the Assistant Engineer-in-Charge, Borough-VII, Howrah Municipal Corporation to pass a reasoned order in respect of the hearing held on the aforesaid dates and to communicate the same to the parties immediately thereafter.

The reasoned order shall be passed in the matter at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

If required, the Assistant Engineer-in-Charge may afford a fresh opportunity of hearing to all the necessary parties.

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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioner is directed to forward a copy of the representation dated 15th February, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

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.)