

S/L 18
12.5.2022
Court. No. 19
sn

WPA 7501 of 2022

Paramita Das Polley @ Paramita Polley & Ors.

Vs.

The Howrah Municipal Corporation & Ors.

Mr. Abhilash Chatterjee

... for the Petitioners.

Mr. Malay Singh

Ms. Neelam Singh

... for the State.

Mr. Santanu Chatterjee

... for the Corporation

Mr. Nirmalendu Ganguly

Mr. A. Chakraborty

..for the respondent no.6

Affidavit-of-service filed in Court today be kept with the record.

The petitioners allege that the authorities of the Howrah Municipal Corporation failed and neglected to take steps with regard to the alleged unauthorised construction raised by the respondent no.6 on holding no. 13/1, Sarat Chatterjee Road, Police Station Chatterjeehat, District Howrah falls within the jurisdiction of the Howrah Municipal Corporation.

It is further submitted that on the basis of the complaint filed by the petitioners, a stop work notice was served upon the respondent no.6.

The petitioners also lodged several complaints before the Commissioner, Howrah Municipal Corporation, which are annexed to the writ petition.

Mr. Ganguly, learned advocate for the respondent no.6 submits that the allegations are falls and frivolous and that there is no basis for such complaints. The writ petition is pre-mature and this Court should not interfere at this stage.

Mr. Chatterjee, learned advocate for the Corporation submits that on the basis of a complaint, a stop work notice was served upon the respondent no.6 and a preliminary hearing was also arranged at the Borough office.

This Court agrees with the submission of Mr. Ganguly to the extent that it is not for the Writ Court to decide and adjudicate the allegation of unauthorised construction. The Corporation is the appropriate authority to take steps in this regard.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Howrah Municipal Corporation to act and proceed in accordance with law and reach the complaints lodged by the petitioners to its logical conclusion by adopting the following procedure:

- a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no.6 and all other interested parties. Advance notice of the inspection shall be served upon all the parties. If the parties are not available to accept notice, the

authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioners and the respondent no.6. 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. All documents relied upon by the respective parties shall be exchanged.

f) 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. The question of

title, boundary dispute etc. shall not be decided by the authority.

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

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)