

18.01.2022
Item No.11
srm

W.P.A. No. 10026 of 2021

Lalbabu Sardar & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Soumen Bhattacharjee

...for the Petitioners.

Mrs. Manjuli Chowdhuri,

Ms. Mekhla Sinha

...for the Howrah Zilla Parishad.

Mr. Amal Sen,

Mr. Lalmohan Bose

...for the State.

Mr. Sudhir Bhattacharjee

...for the Respondent No.8.

Mr. Sanjib Seth

...for the Respondent No.10.

It is submitted by the learned Advocate on behalf of the respondent Nos.9 and 10 that the respondent No.9 had expired before the writ petition was filed. He submits that without substitution of the legal heirs and representatives of the respondent No.9, no orders can be passed against the said respondent.

Having heard the rival contentions of parties, it appears that the only grievance of the writ petitioners is that the representations/complaints of the petitioners before the District Engineer, Howrah Zilla Parishad dated January 4,

2021 and dated October 3, 2017 through their learned Advocate, have not been disposed of in accordance with law.

Records reveal that the area on which the alleged unauthorised construction is going on is under the KMDA and as such the permission granting authority is the Howrah Zilla Parishad.

This Court does not find any reason to keep the writ petition pending and disposes of the same with a direction upon the respondent No.4 to dispose of the demands of justice and representations made by the petitioners, which are annexures P/3 and P/4 to the writ petition.

While disposing of the said representations, the District Engineer, Howrah Zilla Parishad shall proceed in the manner stated hereinbelow:

- (a) The District Engineer, Howrah Zilla Parishad shall cause an inspection of the premises in question in the presence of all the interested parties in order to ascertain whether there are any unauthorised constructions and also to ascertain the extent and nature of the unauthorised construction, if any.
- (b) A copy of the inspection report shall be handed over to the respective parties.

- (c) The petitioners as also the respondent No.10 and the legal heirs and representatives of the respondent No.9 shall be given a hearing.
- (d) The interested person shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention, that the entire proceedings shall be reached to its logical conclusion.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight months from the date of communication of this order.

It is made clear that the question of title, encroachment, boundary disputes, etc. shall not be gone into by the District Engineer, Howrah Zilla Parishad. The enquiry of the District Engineer will be limited to the question as to whether the alleged construction has been made in the absence of any permission and/or in deviation of the permission and the rules. While disposing of the matter, if it is found that the construction is going on illegally, the Howrah Zilla Parishad shall be at liberty to impose restrictions and take such interim measures as permitted under the law.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the District Engineer, Howrah Zilla Parishad, independently.

The petitioners shall serve a copy of this order along with the copies of the representations to the District Engineer, Howrah Zilla Parishad.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)