

S/L 8
20.05.2022
Court. No. 19
sn

WPA 9100 of 2022

M/s. Pratima Construction & Anr.
Vs.
The Howrah Municipal Corporation & Ors.

Mr. Prabal Kumar Mukherjee..Sr. Adv.
Mr. Somnath Ray Chowdhury
Ms. Arpita Chowdhury
... for the Petitioners.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
..for the HMC

The learned advocate for the petitioners submits that a notice of hearing was issued by the Howrah Municipal Corporation with regard to an alleged unauthorized construction, without prior inspection in the presence of the petitioners.

It is further contended by the petitioners that an objection was raised by the petitioners at the hearing and an adjournment was prayed for, but the authority proceeded with the hearing without considering such objection.

The contentions of the petitioners are that this Court had directed the authority to proceed in accordance with law, with regard to the alleged unauthorized construction on the basis of the complaint filed by the respondent no.4. A method had been prescribed by the Court. Such direction of the Court was not followed. It is further contended that

that inspection was not held. Report of inspection was not prepared and as such the nature and extent of the unauthorized construction was neither delineated nor indicated to the persons responsible.

Under such circumstances, this Court is of the view that the notice and the proceeding, which has been initiated, pursuant to the notice dated May 6, 2022 cannot be sustained in law and are thus set aside. All minutes and orders recorded pursuant to the said notice, are also set aside.

The Municipal Commissioner, Howrah Municipal Corporation shall proceed de novo from the stage of inspection of the previous order dated February 8, 2022. However, the inspection shall be held by an assistant engineer authorised by the Commissioner, upon notice to the petitioner as also the respondent no.4. Adequate opportunity shall be given to the respondent no.4 during inspection and the hearing. All notices shall be affixed at their respective addresses, in case, they are not available for service of notice. The procedure prescribed by this Court in the order dated February 8, 2022 passed in WPA 17081 of 2021 shall be followed.

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 the learned advocate's communication.

(Shampa Sarkar, J.)