

Item No. 31

21.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 9168 of 2022

Nandlal Agarwal @ Sonthalia
v.
The Howrah Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee
Ms. Kalpita Paul
Mr. Souvik Das
Mr. K. Raihan Ahmed
Mr. Rudranil Das
... for the petitioner.

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

Mr. Mrinal Kanti Ghosh
... for the private respondent.

The petitioner alleges illegal and unauthorized construction. The holding numbers involved in the present writ petition are 171, 36/2, 36/4 and 33+34/1, Madhusudan Pal Chowdhury Lane, Ward No. 22, Borough-III under the jurisdiction of the Howrah Municipal Corporation.

The Assistant Engineer-in-Charge, Building Department, Howrah Municipal Corporation has filed a report wherein it has been mentioned that there has been massive unauthorized construction at the said premises. Additional floors have been constructed without obtaining any sanctioned plan. Self-demolition notice has been issued but the demolition is yet to take place.

The Corporation granted permission for construction of G+2 storied building but the person responsible constructed additional three floors without sanction.

Learned advocate representing the person responsible for making construction submits that during the time of making construction permission was sought for regularizing the construction that has been made.

The provisions of the Howrah Municipal Corporation Act clearly lays down that construction can be made only upon obtaining prior permission/sanction from the plan sanctioning authority.

The private respondent took the risk of making construction of three additional floors without obtaining any prior sanction. There are four buildings and in each of the buildings, three additional floors have been constructed without obtaining any sanction.

The said action of the person responsible cannot be supported in law. Such type of action on the part of the person responsible ought not to be taken leniently, otherwise, the same will provide dishonest and unscrupulous builders opportunity to raise construction without obtaining prior sanction plan and thereafter approach the Municipal Authority praying for regularization of the construction that has been made.

Permitting such action will amount to granting premium to such type of corrupt builders. It is high time that the Corporation take steps to get rid of the unauthorized construction in accordance with law.

As the time period for effecting self-demolition is already over, the Howrah Municipal Corporation is directed to proceed with the demolition work of the unauthorized construction of the 3rd, 4th and 5th floors of all the four buildings and to recover the cost of demolition as arrears of property tax.

The Officer-in-Charge, Bantra Police Station is directed to render all necessary assistance to the men and agents of the Howrah Municipal Corporation at the time of implementing the demolition work, as sought for.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)