

Item No. 5

16.06.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 9960 of 2022
Happy Sunshine

v.

The Howrah Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee

Mr. Souvik Das

... for the petitioner.

Mr. Sandipan Banerjee

Mr. Ankit Sureka

Mr. Sobham Majumder

... for the HMC.

The petitioner is aggrieved by the act of the Howrah Municipal Corporation in conducting the inspection on April 12, 2022 even though a request was made from the petitioner to adjourn the date of inspection as the petitioner was unwell on the said date.

The inspection was conducted in terms of the order passed by this Court on March 31, 2022 in WPA 16516 of 2021 (Rita Singh & Anr. v. Howrah Municipal Corporation & Ors.).

The Court in the said order specifically mentioned that an inspection of the premises being Premises No. 110/2, Kali Kundu Lane, Police Station-Bantra, Ward No. 24 under the jurisdiction of the Howrah Municipal Corporation shall be made in the presence of the petitioners, the complainant and all other interested parties on April 12, 2022 at 12 noon.

The Court further directed that a hearing shall be given to the petitioner, developer, complainant and all other interested parties on May 17, 2022 at 12 noon.

The Court recorded that the date fixed by the Court shall be complied with and adhered to by the parties, except under very special circumstances.

Learned advocate for the petitioner stress upon a letter dated April 12, 2022 which was given to the Assistant Engineer (In-charge), Building Department of the Howrah Municipal Corporation with a request to adjourn the date of inspection. The Corporation proceeded with the inspection on the scheduled date and time in the absence of the petitioner. A hearing was fixed on May 17, 2022, which was thereafter postponed to May 30, 2022.

The inspection report was supplied to the petitioner. From the inspection report it appears that the Howrah Municipal Corporation has come to a definite finding that the total constructed area is 2653.98 more or less and the percentage of deviation of the unauthorized area is 96.60%. The entire 5th and 6th floor have been constructed without any sanction plan. Plan has been sanctioned only upto G+4 floor and there is deviation in each floor upto G+4 = 110.58 sq. m. the more or less.

The petitioner relies upon the earlier inspection which was conducted on November 26, 2021, wherein the portion of unauthorized construction is less than

what has been mentioned in the present inspection held on April 12, 2022.

The petitioner submits that as the inspection was held in his absence, accordingly, a further chance may be given to the petitioner to remain present during a fresh inspection to be held by the Howrah Municipal Corporation.

It appears from the inspection report dated April 18, 2022 that the figures mentioned therein are different from the inspection report of the Howrah Municipal Corporation dated November 26, 2021. It appears that there has been gross difference in the figures mentioned in the two reports.

Accordingly, the men and agents of the Howrah Municipal Corporation are directed to conduct a fresh inspection upon giving prior notice to the petitioner, the complainant and all other necessary parties within a period of three weeks from date. The inspection report shall be served upon the parties immediately thereafter.

After the report is circulated amongst the parties, the Howrah Municipal Corporation shall act strictly in accordance with the direction that has been passed by the Court on March 31, 2022 in WPA 15616 of 2021.

A fresh date of hearing be fixed and intimated to the parties.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

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.)