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05.09.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 11012 of 2022

**Ramesh Kumar Jaiswal
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Debanik Banerjee,
Mr. Akash Ganguly.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Sobhan Majumder,
Mr. Ankit Sureka.
...For HMC.**

**Mr. Subir Banerjee,
Ms. Sucheta Mitra.
...For the Respondent
Nos. 6 to 12.**

**Mr. Debdutt Mukherjee,
Mr. Gourav Kumar Das,
Mr. S. Chakraborty.
...For the Respondent No.13.**

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

The petitioner alleges illegal and unauthorized construction at the instance of the private respondents.

It is the specific submission of the petitioner that plan has been sanctioned in respect of the Premises No.34 and 34/1, Dr. P.K. Banerjee Road, Ward No. 29,

P.S.-Howrah, Pin-711101 for constructing a G+2 structure.

The private respondents have made construction of a G+6 storied building with sanction for constructing G+2 storied building and the construction has been made without maintaining the statutory side open spaces.

An objection was filed by the petitioner before the Corporation in April 2022 and the same is yet to be disposed of by the respondents..

It has been submitted that the Corporation has already demolished a portion of the said unauthorized construction (6th floor) but the other floors which have been constructed illegally are yet to be demolished.

Learned advocate appearing for the private respondents is yet to get instruction from his clients.

Learned advocate appearing for the Howrah Municipal Corporation submits that part demolition has already been conducted by the Corporation.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.3 being the Commissioner, Howrah Municipal Corporation to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 1st April, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)