

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 11288 of 2022

Monoj Kumar Gore
-versus-
Howrah Municipal Corporation & Ors.

Mr. Ayan Banerjee,
Ms. Debjani Sengupta
...for the petitioner

Mr. Sandipan Banerjee,
Mr. Sobham Majumder,
Mr. Ankit Sureka
...for the Howrah Municipal
Corporation

Mr. Pinaki Ranjan Mitra
...for the respondent no. 6

The petitioner filed the writ petition challenging the self demolition notice dated 14th June, 2022 issued by the Assistant Engineer, Borough-VII, Howrah Municipal Corporation, in respect of the construction made at 5/A, Gupta Para 1st bye-Lane, Dag No. 407(L.R.), Ward No. 47 under the Howrah Municipal Corporation.

In compliance of the direction passed by this Court, an inspection was conducted after giving prior notice to the petitioner as well as the complainant. A report has been filed before this Court, signed by the OSD & Officer-in-Charge, Borough VII, Howrah Municipal Corporation dated 13th July, 2022, which mentions that the covered area of construction by the petitioner in the ground floor is 36.57 square meter and first floor is 36.57 square meter whereas sanction was

taken in the ground floor as 14.219 square meter and in the first floor as 14.219 square meter. The construction which has been made in excess in the ground floor and the first floor is 22.351 square meter each.

The learned Advocate representing the petitioner submits that an application has already been made before the Howrah Municipal Corporation praying for regularization of the deviation that has been made at the time of making construction.

The said application was filed on 17th June, 2022 but the same is yet to be considered by the Howrah Municipal Corporation.

Learned advocate representing the private respondent submits that the petitioner has encroached upon the private land of his client and, accordingly, self demolition notice ought to be acted upon.

After hearing the submissions made on behalf of all the parties and upon perusal of the materials before this Court it appears that admittedly there has been deviation at the time of making construction by the petitioner.

The self demolition notice has been issued for demotion of the unauthorized portion of the said building. The application of the petitioner praying for regularization is also pending before the Corporation.

For the ends of justice, the competent authority of the Howrah Municipal Corporation is directed to take a decision with regard to the application made by the petitioner on 17th June, 2022 praying for regularization

of the portions which were considered as unauthorized by the Corporation and thereafter take fresh decision with regard to the portions to be demolished.

The said authority shall consider the prayer of the petitioner strictly in accordance with law at the earliest but positively within a period of twelve weeks from the date of communication of this order to the said authority.

The said authority shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

It is made clear that the authorities will not enter into the issue of encroachment raised by the private respondent. The parties have already preferred a Civil Suit over the issue of encroachment which is pending consideration.

The petitioner is directed to forward a copy of the application dated 17th June, 2022 to the Howrah Municipal Corporation at the time of communicating the order of this Court.

The self demolition notice issued on 14th June, 2022 shall abide by the decision taken by the Howrah Municipal Corporation upon consideration of the application made by the petitioner for regularization of the deviation.

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.)