

Sl. No.15
06.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 11633 of 2022

Purnima Koley
versus
The Howrah Municipal Corporation & Ors.

Mr. Debanile Banerjee
Mr. Akash Ganguly
Mr. Anirudha Ganguly

... for the Petitioner.

Mr. Sanjib Seth

... for the respondent nos.7 to 12

Mr. Lalit Mohan Mahata
Mr. Rudranil De

... for the State

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

... for the Howrah Municipal Corporation

The petitioner alleges illegal and unauthorised construction on the holding No.33/15, Makardaha Road, under Ward No.22, Borough-III, within the jurisdiction of the Howrah Municipal Corporation.

The construction is being made by Sarfaraz Ahmed, the respondent no.6 herein.

The owners of the property in question being the respondent nos.7 to 12 are represented in Court.

None appears on behalf of the respondent no.6.

There is no proof of service of the writ petition upon the respondent no.6.

Learned advocate representing the Howrah Municipal Corporation submits that the representation that has been filed by the petitioner may be considered upon spot inspection of the premises.

Learned advocate representing the owners submits that the structure standing at the aforesaid premises is an old one and no new construction has been made.

The petitioner has annexed photograph to show that construction standing thereon is a new one.

In view of the order that I propose to pass no useful purpose would be served by keeping the writ petition pending and none of the parties will be prejudiced, if the writ petition is disposed in the following manner.

The writ petition is accordingly disposed of by directing the competent officer of the 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 12 weeks 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 unauthorised 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 18th April, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)