

Item No. 47

06.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14679 of 2021
Pushpa Roy
v.

The Howrah Municipal Corporation & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha
Mr. Abhilalsh Chatterjee
... for the petitioner.

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

Service upon the respondent no. 4 has come back unserved with the postal endorsement “not claimed”.

The petitioner complains of illegal and unauthorized construction at the behest of the respondent no. 4 at 87, B Road, Bamungachi, P.S.-Liluah, Howrah, Ward No. 7 under the jurisdiction of the Howrah Municipal Corporation.

The petitioner complains that construction is being made without obtaining a proper sanctioned plan.

The objection filed by the petitioner alleging unauthorized construction was taken up for consideration by the Executive Engineer (Building) Department, Howrah Municipal Corporation and a date of hearing was fixed on February 22, 2022.

The petitioner submits that on the scheduled date the petitioner remain present along with all documents in her support. No final order has been passed as yet.

Learned advocate for the Howrah Municipal Corporation is yet to receive instruction in the matter.

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. 1 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 December 9, 2020 followed by reminder dated December 15, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

The present writ petition is only confined to the submission and prayer of the petitioner for dealing with the unauthorized construction. The other submissions and prayers made by the petitioner are left open to be adjudicated in the proper forum.

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.

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(Amrita Sinha, J.)