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17.08.2022
d.p.

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

W.P.A. 14353 of 2022

**Gopal Chandra Paul & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Amal Kumar Mukhopadhyay,
Ms. Tithi Mazumder.
...For the Petitioners.**

**Mr. Ziaul Islam,
Mr. Khaliqur Rahman.
...For the State.**

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

**Mr. K.M. Hossain.
...For the Private respondent.**

The matter relates to the unauthorized construction made at the instance of the person responsible at Premises No. 14, Golam Abbas Lane, Ward No.-15, Howrah-711106 under the jurisdiction of the Howrah Municipal Corporation.

According to the report filed by the Howrah Municipal Corporation in Court today, it appears that a self-demolition notice was issued on 10th May, 2022 and a reminder was given on 21st June, 2022.

According to the Howrah Municipal Corporation, the 3rd floor to the 7th floor of the said building is unauthorized.

Show cause notice was issued to the person responsible in the year 2017. An opportunity of hearing was given on 23rd October, 2017 but the hearing was adjourned on the prayer made on behalf of Devi Rani Paul, the person responsible for making such unauthorized construction. Thereafter, hearing was conducted on 27th August, 2019 as per the order of this Hon'ble Court.

Sri Partho Paul one of the persons responsible for making construction attended hearing and identified himself with the Aadhaar Card. The said Partho Paul submitted power of attorney from 1) Smt. Debi Rani Paul, 2) Miss Barnali Paul, 3) Miss Kakuli Paul, 4) Smt. Chaitali Paul, 5) Mr. Goutam Paul, 6) Smt. Dipa Paul, 7) Mr. Tarak Paul, and 8) Smt. Padma Rani Paul.

The aforesaid Partho Paul allegedly admitted that he got plan for making construction of G+2 storied residential building in the year 2017 but construction was made of G+6 and partly G+7.

Prayer was made for regularizing the said building rather than demolishing the same.

Learned advocate appearing for the petitioners submits that though the hearing was conducted in the year 2019 but the fate of the hearing was never communicated to the petitioners. It is for the first time that the order of hearing was handed over in Court today.

According to the petitioners, the sanction plan got misplaced sometime in the year 2021 and the petitioners do not have a copy of the said sanction plan at present.

The petitioners rely upon the document showing submission of the sanction fees of Rs.1,37,223/- on 16th March, 2017.

According to the records maintained by the Howrah Municipal Corporation, there is only sanction for making construction of G+2 building as such any construction made beyond the sanction remains unauthorised.

If the petitioners are unable to produce any document in support of the construction of the G+7 storied building within a period of twelve weeks from date, it will be open for the Howrah Municipal Corporation to take necessary consequential steps to deal with the unauthorized construction made in the 3rd floor to the 7th floor of the building in accordance with law.

The prayer of the petitioners for setting aside the notice for demolition cannot be accepted because the petitioners have failed to show any document in support of the construction of the 3rd floor to the 7th floor of the said building.

Learned advocate appearing for the respondent No. 7 submits that he is a tenant in the 6th floor of the said building.

The respondent No.7 has filed a Suit praying for declaration that the landlords cannot evict him without

the due process of law. The Howrah Municipal Corporation is also a party in the said Suit.

Learned advocate appearing for the respondent No.7 further submits that an order of injunction has been passed by the learned Court restraining the landlords from evicting him.

It is made clear that the order of injunction will not stand in the way of the Howrah Municipal Corporation to take steps for demolition of the unauthorized construction in the event the petitioners/landlords fail to show any document in support of the construction that has been made.

An order of injunction cannot be made applicable in respect of any construction that has been made contrary to the provisions of law.

The Officer-in-Charge of the Golabari Police Station is directed to render all necessary assistance, if sought for, to the men and agents of the Howrah Municipal Corporation at the time of carrying on the demolition proceeding.

The writ petition fails and is hereby dismissed.

The instruction given by the Howrah Municipal Corporation be retained with the records.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)