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06.09.2022
d.p.

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

W.P.A. 14842 of 2022

**Mridula Rani Santra
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Haradhan Banerjee,
Mr. Amitava Pain.
...For the Petitioner.**

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

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

The petitioner is aggrieved by the order of demolition that has been passed by the Howrah Municipal Corporation directing the petitioner to demolish the unauthorized construction to the extent of 70.926 sq.m. which was constructed by the petitioner in the ground floor and the first floor of the Premises No.P-293, Beharapara Dasnagar, Howrah-711105.

The petitioner has applied before the Howrah Municipal Corporation praying for regularization of the said unauthorized construction by a representation filed before the Corporation on 2nd July, 2022. The same is yet to be considered.

The petitioner has also filed a representation before the Howrah Municipal Corporation alleging illegal and unauthorized construction at the instance of the respondent No.7, Avishake Dhara.

The impugned order of demolition was passed on the basis of a complaint lodged by the aforesaid Avishake Dhara.

The private respondent is not represented in Court today.

The Howrah Municipal Corporation has already conducted a site inspection in presence of all the parties and has come to a finding that there has been deviation of 70.926 sq.m.

The petitioner has applied for regularization of the said unauthorized construction.

In view of the above, the instant writ petition is disposed of by directing the respondent no.5 being the Assistant Engineer, Building Department to take a decision with regard to the prayer made by the petitioner for regularization of the alleged unauthorized construction made by her and to consider the representation filed by the petitioner against the illegal and unauthorized construction made at the instance of the respondent No.7.

The representation for regularization shall be considered by the respondent No.5 in accordance with law, at the earliest, but positively within a period of eight weeks from the date of communication of this order. The respondent no. 5 shall pass a reasoned order

and communicate the same to the petitioner immediately thereafter.

The representation alleging illegal and unauthorized construction shall be considered by the respondent No.5 after giving a reasonable opportunity of hearing to the parties in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

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 representations 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 representations of the petitioner.

The petitioner is directed to forward a copy of the representations dated 4th July, 2022 and 2nd July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Till a decision is taken by the aforesaid respondent with regard to the prayer for regularization

of the unauthorized construction made by the petitioner, the respondent Corporation is restrained from giving any effect and/or further effect to the order of demolition that has been passed.

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.)