

02.02.2022
Court No. 19
Item no.08
CP

WPA 17632 of 2021

Sailesh Chandra Dey
Vs.
Howrah Municipal Corporation & ors.

Mr. Pinaki Ranjan Mitra
.....for the petitioner.

Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
....for the H.M.C.

Mr. Debabrata Roy
Mr. Abhijit Kumar Adhya
.....for the respondent no. 6.

The writ petition has been filed alleging unauthorized construction by the respondent no. 6.

It appears that complaints were made to the Commissioner, Howrah Municipal Corporation as also the Assistant Engineer, Borough VII of the Howrah Municipal Corporation (hereinafter referred to as the corporation). The petitioner alleged that the respondent no. 6 had constructed on Holding No. 2/1 Jadu Mukherjee Lane, District – Howrah without a valid sanction/permission.

Mr. Roy, learned advocate appearing on behalf of the respondent no. 6, submits that the property was purchased by Mr. Roy's client in the year 1996. It is further submitted that the first complaint lodged by the petitioner sometime in 2006 was disposed of

by the corporation and some construction, which was found by the corporation to be a minor deviation, was regularized upon payment of penalty and/or fine. According to him, after 2006 no further construction had taken place. He is ready with documentary evidence in support of his contentions.

Mr. Banerjee, learned advocate appearing on behalf of the corporation, submits that there was a complaint and the same shall be disposed of in accordance with law, upon hearing the parties.

This court does not enter into the merits of the claims and counter-claims of the parties but directs the Commissioner of the corporation or his delegatee to dispose of the complaint of the petitioner. The issues shall be decided independently.

The competent authority of the corporation shall act and proceed in accordance with law by adhering to the following directions:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent no. 6.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.

- c) Such report shall be handed over to the petitioner as also the respondent no. 6.
- d) A hearing shall be given to the petitioner and the respondent no. 6. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority.
- e) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The entire exercise shall be completed within a period of six months from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)