

05.01.2022
Court No. 19
Item no.15
CP

WPA 17787 of 2021

Nanda Bandyopadhyay (Santra)
Vs.
Howrah Municipal Corporation & ors.

Mr. Nilanjan Bhattacharya
Mr. Arpan Guha
.....for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
....for the H.M.C.

Mr. Abhra Mukherjee
Mr. Sauradeep Dutta
.....for the respondent no. 5.

Affidavit of service is taken on record.

Learned advocate appearing for the Howrah Municipal Corporation submits that proceedings have been initiated against the construction of the respondent no. 5 pursuant to the complaint made by the petitioner and a hearing was also given. Notice under Section 177(1) of the Howrah Municipal Corporation Act 1980 was issued on January 3, 2022. Records of the proceedings dated December 20, 2021 have been produced before this court, from which it appears that there are some admissions with regard to the unauthorized construction.

Mr. Bhattacharya, learned advocate appearing for the petitioner, submits that the Howrah

Municipal Corporation may be directed to reach the proceedings already initiated, to its logical conclusion.

Mr. Mukherjee, learned advocate appearing on behalf of the respondent no. 5, submits that the construction has been made according to the sanction plan. Copy of the plan has been handed over to the court. He denies that the respondent no. 5 had ever accepted or admitted deviations in the construction work.

As the Howrah Municipal Corporation has produced the records before this court, from which it appears that proceedings under Section 117 of the Howrah Municipal Corporation Act has already been initiated and preliminary hearing was held, this court is of the opinion that the Corporation authorities must be directed to conclude the proceedings in accordance with law.

Under such circumstances, the writ petition is disposed of with the following directions:

- a) An inspection of the site shall be made.

Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent No. 5.

- 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. 5.
- d) A hearing shall be given to the petitioner and the respondent No. 5. The parties must also be allowed to furnish their written objection/version to the said report and make oral and documentary submissions as also adduce 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 court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided independently.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight 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.)