

Item No. 16

30.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 18269 of 2022

Smt. Mridula Rani Santra & Ors.
-vs.-
The Howrah Municipal Corporation & Ors.

Mr. Haradhan Banerjee
Mr. Partha Pratim Mukherjee
...For the Petitioners.

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit Sureka
...For the Howrah Municipal Corporation.

The petitioners complain of illegal and unauthorized construction at the Premises No. 309, Khatian No. 299, Mouza-Shanpur, Ward No. 9 under the jurisdiction of the Howrah Municipal Corporation.

The petitioners complain that construction was being made at the instance of the private respondents without obtaining any sanctioned plan.

Copy of the writ petition which was served upon the private respondents have returned unserved with the postal endorsement "Refused."

A report of the Sub-Inspector of Police, Dasnagar Police Station, HPC dated November 25, 2021 is annexed to the writ petition. The said report was filed by the police in connection with the MP Case No. 1284 of 2021 dated October 26, 2021 under Section 144(2) CrPC. The report mentions that during enquiry the photocopy of the sanctioned plan issued by the Building Department,

Howrah Municipal Corporation dated June 10, 2016 was produced. The police report mentions that the complaint of unauthorized construction could not be substantiated on this score.

The Court is of the opinion that the police will not be the appropriate authority to take a decision as to whether the construction has been made in accordance with the plan sanctioned by the Corporation or not.

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 Howrah Municipal Corporation to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners.

The petitioners are directed to forward a copy of the representation dated August 2, 2022 received by the Howrah Municipal Corporation on August 3, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)