

Sl. No.26
07.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20159 of 2022

Sri. Amit Kumar Rai
v.
The Howrah Municipal Corporation & Ors.

Mr. Animesh Paul
... for the petitioner

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit surekha
... for the Howrah Municipal Corporation

Mr. Tarak Karan
... for the State

Mr. Mrityunjay Chatterjee
Mr. Samrat Paul
... for the respondent no.8

The petitioner complains of illegal and unauthorised construction at the instance of the respondent nos. 5 to 8. Service upon the respondent nos. 5, 6 & 7 have come back with the postal endorsement “building under construction, no such person available”.

Affidavit of service filed in Court is taken on records.

Learned advocate representing the respondent no. 8 who is alleged to be the promoter of the construction that is being made submits that, construction is being made in accordance with the plan sanctioned.

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, being the Howrah Municipal Corporation, to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of 12 weeks 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 petitioner 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 unauthorised 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 petitioner.

The petitioners are directed to forward a copy of the representation dated 4th July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on records.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)