

Item No. 14

15.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 21135 of 2022

Sri Monoj Kumar Gore
v.
Howrah Municipal Corporation & Ors.

Mr. Ayan Banerjee
Ms. Debjani Sengupta
... for the petitioner.

Mr. Pinaki Ranjan Mitra
... for the respondent no.6.

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
... for HMC.

The petitioner is aggrieved by the order dated September 5, 2022 directing the petitioner to remove and cause self-demolition of the deviated portions of the unauthorized construction.

It appears that the petitioner approached this Court on an earlier occasion by filing a writ petition being WPA 11288 of 2022 which was disposed of on July 20, 2022 by directing the Howrah Municipal Corporation to take a decision with regard to the prayer of the petitioner dated June 17, 2022 for regularization of the portions which were considered as unauthorized. The Corporation was directed to take a fresh decision with regard to the portion to be demolished.

It appears that by the impugned order, the OSD & Officer-in-Charge, Borough-VII, Howrah Municipal Corporation has passed an order of self-demolition without mentioning as to whether the prayer of the petitioner for regularization has been considered or not.

The order on the earlier occasion specifically directed that the prayer for regularization shall be taken up first and thereafter the prayer for demolition of the unauthorized construction to be considered. The impugned order does not reflect that the prayer for regularization was at all taken into consideration.

The prayer of the petitioner for regularization will become infructuous if the order of demolition is executed first.

In view of the above, the order impugned dated September 5, 2022 is set aside and quashed.

The respondent no. 2 i.e. the Commissioner of Howrah Municipal Corporation is directed to re-consider the matter afresh and take a decision with regard to the prayer of the petitioner for regularization of the unauthorized construction.

After the prayer of the petitioner for regularization of the unauthorized construction is disposed of, the Commissioner shall decide as to whether there is any requirement of passing an order of demolition.

Order shall be passed by the Commissioner after giving prior opportunity of hearing to all the necessary parties. A decision shall be taken in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The Commissioner shall pass a reasoned order and communicate the same to the parties immediately thereafter.

The writ petition stands 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.)