

21.11.2022
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AN/Ct. No.24

WPA 21359 of 2022

**Ramesh Kumar Jaiswal
versus
The Howrah Municipal Corporation & ors.**

Mr. Debanik Banerjee
Mr. Akash Ganguly

... for the petitioner

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit Sureka

... for Howrah Municipal
Corporation

Mr. Subas Ray
Mr. Biswabrata Basu Mallick
Ms. Sharda Das

... for respondent no. 6 & 7

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 6 and 7. The petitioner complains that the representation filed before the Howrah Municipal Corporation objecting to the illegal and unauthorized construction has not been taken up for consideration till date.

Learned counsel representing the private respondents submits that the petitioner is a busy body and complaint filed by him ought not to be considered. The private respondents challenge the locus standi of the petitioner in presenting the writ petition.

It is further been submitted that complaint was filed by the petitioner in July, 2020 and he has filed the writ

petition before this Court in the year 2022 after lapse of two years.

Learned counsel representing the Howrah Municipal Corporation submits that the authority is bound to act in accordance with the provisions of law.

I have heard the submissions made on behalf of the parties.

The information provided by the Public Information Officer mentions that a plan has been sanctioned for construction of G+3 storied building. The petitioner has alleged that the private respondents have constructed two additional floors. It is the duty of the Corporation to take immediate action against any construction made unauthorizedly in deviation of the sanctioned plan. The petitioner filed the complaint way back in July, 2020 and till date the Corporation failed to act in response to the same.

The inaction on the part of the Corporation compelled the petitioner to file the present writ petition. Had the Corporation acted in proper time, the petitioner would have been saved the trouble of filing the present writ petition.

As regards the issue of locus standi of the petitioner raised by the private respondents, the matter has been decided by the Hon'ble Supreme Court that even a stranger is entitled to file complaint highlighting any illegality at the time of making construction.

The writ petition is accordingly disposed of by directing the respondent no. 3 or his delegate 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 petitioner within a period of twelve 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 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 petitioner.

The petitioner is directed to forward a copy of the representation dated 21.07.2020 to the aforesaid respondent at the time of communicating the order of the Court.

Writ petition stands disposed of.

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

(Amrita Sinha, J.)