

Item No.29

28.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23625 of 2022
Sri Samir Kumar Talukdar & Ors.

-vs.-

The Municipal Commissioner, Howrah Municipal Corporation & Ors.

Mr. Amitabha Roy
Ms. Indira Chatterjee
... for the petitioners.

Mr. Susanta Pal
Mr. Ananda Dulal Sarkar
... for the State.

Mr. Dilip Kumar Chatterjee
Mr. Durga Bhusan Mukherjee
Ms. Anindita Banerjee
... for the respondent nos. 6 & 7.

Mr. Supriya Chattopadhyay
Ms. Sabnam DE
... for the respondent nos. 8 to 10.

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

The petitioners complain of illegal and unauthorized construction at Premises No. 11/2, Baje Shibpur Road , Ward No. 31, Borough-V under the jurisdiction of the Howrah Municipal Corporation.

Specific allegation is that construction is being made without maintaining the mandatory statutory side open spaces. It is the further allegation that additional floors are being constructed without obtaining sanction.

The aforesaid allegation of the petitioners is denied by the respondent nos. 8, 9 and 10, the persons responsible for making construction.

Learned advocate representing the Howrah Municipal Corporation is yet to receive instruction in the matter.

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 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 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 petitioners 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 September 5, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)