

Item No.11

23.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 25059 of 2022
K. Orchid Private Limited & Anr.
-vs.-
The Howrah Municipal Corporation & Ors.

Mr. Haradhan Banerjee
Mr. Amitava Pain
Mr. Nilmoni Das
Mr. Partha Pratim Mukhopadhyay
... for the petitioners.

Mr. Tanmoy Khan
... for the respondent no. 5.
Vakalatnama filing No. 1 of 2022.

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

The matter relates to unauthorized construction at the premises no. 30/5, C.T.I. Road, Ward No. 50 within the jurisdiction of the Howrah Municipal Corporation.

The Corporation sanctioned a plan for making construction of G+3 storied building. The persons responsible have made construction of additional 4th, 5th and 6th floor without any sanctioned plan. The Corporation issued notice under Section 177 (1) of the Howrah Municipal Corporation Act, 1980 and an opportunity of hearing was given to the persons responsible. A hearing was conducted on March 3, 2022 and the persons responsible attended the hearing. As the construction work continued despite the stop work

notice, demolition proceeding was concluded and the notice of demolition was issued on May 27, 2022 directing the persons responsible to demolish the unauthorized construction.

The time stipulated for demolishing the unauthorized construction is long over.

Learned advocate representing the petitioners submits that no notice of hearing was given to the petitioners prior to passing the impugned order of demolition. Notice was not issued to Beauty Koley, petitioner no. 2 who is a co-owner of the property.

The petitioners submit that representation has been filed before the Howrah Municipal Corporation on November 9, 2022 and allege that the same has not been taken up for consideration till date.

The petitioners have failed to satisfy the Court that they have made construction in accordance with the plan that has been sanctioned. The representation filed by the petitioners mentions about regularization of the construction made.

According to the provisions of the Howrah Municipal Corporation Act, 1980, no person is entitled to raise construction without obtaining a proper sanctioned plan from the Corporation.

In the instant case it appears that three additional floors have been constructed without obtaining the sanctioned plan. The Corporation issued the notice of hearing and the parties were heard and formal order of demolition has been passed.

The Court is not inclined to exercise jurisdiction in the matter.

The writ petition fails and is hereby dismissed.

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.)