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24.11.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A. 23012 of 2019
IA No. CAN 1 of 2022
CAN 2 of 2022**

**Dharmendra Kumar Singh
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Abhisek Banerjee.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Sobhan Majumder,
Mr. Ankit Sureka.
...For HMC.a**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly.
...For the Respondent
Nos. 6 and 7.**

The receipt showing deposit of Rs.1000/- in the office of the State Legal Services Authority, West Bengal is taken on record.

The order dated 20th June, 2022 stands recalled.

The writ petition is restored to its original file and number.

The application being IA No. CAN 2 of 2022 is disposed of.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent Nos. 6 to 10.

It has been submitted that there is a sanction for construction of only G+1 storied building. The private respondents have constructed G+4 storied building without any sanction plan.

The aforesaid contention of the petitioner is denied by the learned advocate appearing for the respondent Nos. 6 and 7.

It has been submitted that the petitioner filed a Civil Suit before the learned court below seeking an order of injunction to restrain the private respondents from continuing the construction work. The prayer for injunction was refused. Challenging the refusal to grant the order of injunction, Miscellaneous Appeal was filed. The prayer for ad interim order has been refused but the appeal is pending till date. The Howrah Municipal Corporation does not appear to be a party in the pending suit.

As it appears that there is a representation pending at the end of the Howrah Municipal Corporation, accordingly, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.2 being the Commissioner, Howrah Municipal Corporation or his delegate 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 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 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 25th May, 2019 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.

(Amrita Sinha, J.)