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20.03.2023
d.p.

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

W.P.A 42 of 2023

**Smt. Renuka Bala Patra & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Sanjib Seth.
...For the Petitioners.**

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

**Mr. Kamalendu Ghose,
Mr. Raja Ghosh.
...For the State.**

**Mr. Sandip Ghosh,
Mr. Partha Sarkar.
...For the Private Respondents.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the respondent no. 5 in spite of service.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents at Holding No. 49, Dipak Karati Sarani 1st Bye Lane, Ward No.47, P.S. Jagacha, District-Howrah, R.S. Dag No. 567, L.R. Dag No. 671, R.S. Khatian No.

422, L.R. Khatian No. 1453 under the jurisdiction of Howrah Municipal Corporation.

After submission of the complaint by the petitioners, a hearing was scheduled on 10th February, 2022 by the Howrah Municipal Corporation.

Learned advocate appearing for the petitioners submits that the petitioners were present at the time of hearing but thereafter no final order has been passed by the Corporation. No steps have been taken for demolition of the unauthorized construction.

Learned advocate appearing for the private respondents submits, upon instructions, that over the selfsame cause of action, a suit has been filed before the Learned Civil Court which is pending disposal.

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

As it appears that a hearing was conducted by the Howrah Municipal Corporation way back in February 2022, it is incumbent for the Corporation to let the parties know the fate of the hearing. The same has not been done till date.

In view of the above, the instant writ petition is disposed of by directing the respondent no.5 being the Assistant Engineer, Borough-VII, Howrah Municipal Corporation who conducted the hearing on 10th February, 2022 to intimate the parties the fate of the hearing.

If required, further inspection and a further opportunity of hearing, may be afforded to all the necessary parties.

Final order shall be passed 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.

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 upon consideration of the inspection report and the submissions made on behalf of both the parties.

If ultimately it transpires that the construction complained of is illegal and unauthorized, then necessary steps shall be taken to deal with the same in accordance with law.

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.)