

20.03.2023
Item No. 63
AGM

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

W.P.A. 392 of 2023

**Sri Deb Kumar Khara
-versus
Howrah Municipal Corporation & Ors.**

**Mr. Chandan Mondal.
...For the Petitioner.**

**Mr. Biswaroop Bhattacharya,
... For the Private respondent.**

**Mr. Sandipan Baneerjee,
Mr. Ankit Sureka,
...For HMC.**

The petitioner complains that unauthorised construction is being made at premises no. 108/5/1, G.T. Road (North), Salkia, P. S. - Golabari, Howrah – 711 106.

Allegation is that construction is being made without obtaining any sanction plan and without leaving the mandatory side open spaces.

Learned advocate representing the private respondent denies the submission of the petitioner.

It has been submitted that the writ petition is liable to be dismissed on account of gross suppression of material facts. The present writ petition has been filed out of vengeance and spite as the private respondent herein filed a writ petition against the present writ petitioner alleging unauthorised construction. As a counter blast, the present writ petition has been filed.

It has been submitted that the structure at the subject premises is in existence for a considerable

period of time and no new construction in any manner whatsoever has been carried out at the instance of the private respondent at the subject premises.

Learned advocate representing Howrah Municipal Corporation seeks time to take 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. 2, the Municipal Commissioner 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 learned advocate for the petitioner is directed to forward a copy of the representation dated 21st December, 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.

(Amrita Sinha, J.)