

20.03.2023
Item No. 64
AGM

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

W.P.A. 505 of 2023

**Surojit Sadhukhan
-versus
Howrah Municipal Corporation & Ors.**

**Ms. Koyeli Bhattacharya.
...For the Petitioner.**

**Mr. S. M. Obaidullah,
Ms. A. Dey,
... For the respondent No. 6.**

**Mr. Sandipan Baneerjee,
Mr. Santanu Chatterjee,
...For HMC.**

The petitioner complains of illegal and unauthorised construction at holding No, 57/1/1, Mahesh Pal Lane, Santragachi, P.S. Chatterjeehat, Howrah – 711 104 Ward No. 44 under jurisdiction of Howrah Municipal Corporation.

It has been submitted that a two storied building has been constructed over half cottah of land. At the time of making construction, the private land of the petitioner has been encroached upon by the present respondent for making construction. Complaints filed before the Howrah Municipal Corporation has remained unheeded.

Learned advocate representing the private respondent denies the allegation 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 as a counter blast to the earlier writ petition filed at the instance of the private respondent alleging unauthorised construction against the petitioner herein.

It has been submitted that the structure in question is in existence from 1990 and no new construction has been made at present.

Learned advocate representing the Howrah Municipal Corporation refers to the communication made under the Right to Information Act and submits that, the plan in question may not be sanctioned by or available in the borough office. The records may be available with the Building Department of the Corporation.

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 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 29th 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.)