

ML 86
10.02.2023
d.p.

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

W.P.A 630 of 2022

**Sk. Ashadar Ali
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Bhagbat Chaudhuri.
...For the Petitioner.**

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

**Mr. Jayanta Samanta,
Ms. Paromita Malakar (Dutta).
...For the Respondent
Nos. 5 to 11.**

The petitioner is aggrieved by the notice of demolition dated 27th December, 2021 directing him to demolish the unauthorizedly constructed portion. It was mentioned in the impugned notice that in the event the demolition is not carried out by the person responsible, then the Howrah Municipal Corporation will cause demolition and recover the cost from the person responsible.

Learned advocate appearing for the petitioner submits that the petitioner has all documents in connection with the land in question.

It has been submitted that tax has been accepted on account of the structure which is standing over the said land. The structure in question is an old one.

It has, however, been fairly submitted that there is no sanction plan pursuant to which the construction was made.

Learned advocate appearing for the petitioner submits that the specification of the unauthorized construction is not mentioned in the impugned order of demolition.

Learned advocate appearing for the Corporation submits that the entire construction is an unauthorized one and there is no requirement of giving any specification to the same.

This Court is of the opinion that possession of title deed does not entitle the owner to raise construction without obtaining any sanction from the authority. A structure which requires a sanction but has been constructed without obtaining the said sanction is an unauthorized one and is liable to be demolished.

The Corporation afforded an opportunity of hearing to the petitioner in terms of the order passed by this Court and being satisfied that there is no building sanction plan, passed order for demolition of the construction.

The Corporation is directed to proceed with demolition of the said construction as the person responsible failed to demolish the same within the time specified.

The Officer-in-Charge, Santragachhi Police Station is directed to render all necessary assistance to the men and agents of the Howrah Municipal Corporation at the time of effecting the demolition, if sought for.

There is no reason for interference in this matter.

The writ petition fails and hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)