

Item No.59

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

14.06.2023
Ct-24

WPA 2747 of 2023
Malati Das

v.

Howrah Municipal Corporation & Ors.

Mr. Arjun Samanta
... for the petitioner.

Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
... for HMC.

Mr. Rohit Kumar Yadav
Mr. Rabindra Kumar Singh
... for the respondent nos. 7 & 8.

Mr. Supratim Dhar
... for the State.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents at premises no. 26 and 26/1, Naskar Para 1st Bye Lane, Ward No. 25, Borough-IV within the jurisdiction of the Howrah Municipal Corporation.

Specific allegation is that construction has been made by not maintaining the mandatory side open spaces and by exceeding the permissible height.

Objection filed against such unauthorized construction is pending consideration.

Learned advocate representing the private respondents submits, upon instruction that, construction is being made in accordance with the plan sanctioned by the Howrah Municipal Corporation.

Learned advocate representing the Howrah Municipal Corporation submits that steps will be taken to enquire and ascertain as to whether construction is being made in accordance with the sanctioned plan or not.

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 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.

Spot inspection upon prior notice to all the parties shall be conducted prior to taking a decision in the matter.

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 December 16, 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.

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(Amrita Sinha, J.)