

21
Ct
No24
AGM

26.06
2023

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

WPA 5364 of 2023

**Tanmoy Roy & Ors.
Vs
The Howrah Municipal Corporation & Ors.**

Mr. Srijib Chakraborty
Mr. Subhasis Chakraborty
Mr. Sunny Nandy
... for the petitioner

Mr. Sanjib Seth
... for the respondent no. 4 and 5

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar
... for the HMC.

Mr. S. Chatterjee ... for the State.

The petitioner alleges that the private respondent is guilty of raising additional floors without obtaining any sanction and also deviated from the sanctioned plan by making construction without maintaining the mandatory side open spaces.

The petitioner contends that the Corporation sanctioned building plan for raising construction upto the G+1 storey. The private respondent constructed several additional floors.

An objection has been filed before the HMC but the same is pending consideration till date.

Learned advocate representing the private respondent admits that additional floors have been constructed.

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, HMC 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 16th February, 2023 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.)