

Item No. 9

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

21.06.2023  
Ct-24

WPA 5491 of 2023  
Nand Kishor Seth  
v.  
State of West Bengal & Ors.

Mr. Yashraj Roy  
... for the petitioner.

Mr. Sandipan Banerjee  
Mr. Ankit Sureka  
Mr. Sobhan Majumder  
... for HMC.

The present writ petition has been filed praying for quashing the order of demolition passed by the Howrah Municipal Corporation in respect of the premises no. 95, G.T.Road, P.O.-Salkia, Police Station-Golabari, District-Howrah, Pin- 711106 under Ward No.15.

According to the petitioner the structure in question was constructed in accordance with the plan sanctioned by the Howrah Municipal Corporation. A supplementary affidavit has been filed by the petitioner annexing documents in support of the sanction and the construction made.

Learned advocate representing the Howrah Municipal Corporation submits that copy of the plan relied upon by the petitioner is not readily available in the building department of the Corporation.

The plan in question appears to be an old one. The petitioner has annexed the money receipt paid for the purpose of obtaining sanction of the plan. Communications have been annexed to the supplementary affidavit in support of the contention that a building plan was sanctioned for raising construction upto the 9<sup>th</sup> floor.

It has been submitted by the learned advocate representing the petitioner that during pendency of the writ petition, the men and agents of the Howrah Municipal Corporation took steps for demolition of a part of the 8<sup>th</sup> floor of the subject structure.

The petitioner prays for a direction upon the Corporation for permitting him to reconstruct the portions which were demolished illegally.

As there are sufficient materials on record to suggest that the structure in question may have been constructed upon obtaining sanction from the Corporation, accordingly, the Corporation is restrained from giving any effect or further effect to the impugned order of demolition.

The Commissioner of the Howrah Municipal Corporation or his delegate is directed to give an opportunity of hearing to the petitioner for production of all necessary documents in connection with the subject structure and verify the documents produced by the petitioner.

After ascertaining the genuinity of the documents of the petitioner, the concerned officer will take a decision as to whether the construction is an unauthorized one or not.

A decision shall be taken in the matter at the earliest but positively within a period of four months from the date of communication of a copy of this order.

An opportunity of hearing shall be granted to the petitioner and all other necessary parties prior to taking a final decision in the matter.

It will be open for the petitioner to apply before the Commissioner or his delegate seeking permission for reconstruction of the portions that have been demolished and a decision shall be taken with regard to permitting reconstruction after verification of the documents produced by the petitioner and after ascertaining whether the construction in question is an authorized one or not.

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.)**