

Item No. 27

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.07.2023
Ct-24

WPA 7067 of 2023
Sri Suraj Kamkar

v.

The Howrah Municipal Corporation Ors.

Mr. Sunny Nandy

Ms. Riya Das

... for the petitioner.

Mr. Ayan Banerjee

Ms. Debasree Dhamali

Mr. Dhiman Banerjee

... for the private respondent.

Mr. Sandipan Banerjee

Mr. Ankit Sureka

Mr. Sobhan Majumder

... for HMC.

The petitioner complains of illegal and unauthorized construction over holding No. 17, New Seal Lane under Borough-IV, Howrah Municipal Corporation.

Specific allegation is that additional floors have been constructed without any sanction and the mandatory side open spaces have been infringed. The municipal road in front of the subject premises has also been encroached. Objection was filed before the Howrah Municipal Corporation but the same is pending consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned.

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 Municipal Commissioner 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 November 1, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today be taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

Sh

(Amrita Sinha, J.)