

Item No.27

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.06.2023
Ct-24

WPA 8492 of 2021
Samar Santra

v.

Howrah Municipal Corporation & Ors.

Mr. Ayan Kumar Boral
Mr. Subhodip Basu
Mr. Mrinmoy Boral
... for the petitioner.

Mr. Animesh Das
... for the private respondents.

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

The petitioner prays for implementation of the order dated December 9, 2015 passed by the Executive Engineer, Building Department, Howrah Municipal Corporation directing demolition of the ground to the 3rd floor of the premises no. 31/2, Kamini School Lane, Salkia, Howrah-6 as the same was constructed without permission/sanction from the competent authority i.e. the Howrah Municipal Corporation.

Learned advocate representing the private respondents submits that the order of self-demolition is under challenge before this Court in WPA No. 489 of 2016. The same is pending consideration till date.

The private respondents deny the allegation of unauthorized construction.

It has been submitted that the construction is in existence for a long period of time. Mere renovation and repairing work has taken place.

It appears from the submissions made on behalf of the parties that writ petition challenging the order of demolition was filed by the private respondents in 2016 and direction for filing affidavit was passed in 2018. There is no order staying operation of the self-demolition notice. It appears that the private respondents have merely filed the writ petition and kept the same pending to avoid the process of demolition.

A construction which has been held to be illegal way back in 2015 and is suffering an order of demolition is liable to be demolished immediately.

As it appears that a considerable period of time has elapsed in the meantime, accordingly, the Commissioner, Howrah Municipal Corporation or his delegate is directed to grant a further opportunity of hearing to the petitioner as well as the private respondents and any other necessary party within a period of twelve weeks from the date of communication of this order and to pass a fresh order clearly mentioning as to whether the construction in question is liable to be demolished or not. The reasoned order to be communicated to all the parties immediately thereafter.

If the Howrah Municipal Corporation is of the opinion that the structure in question is liable to be demolished, then it will be open for the Corporation to seek necessary police assistance at the time of execution of the work of demolition.

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.)