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Ct. 24
21.04.2023

W.P.A. 4433 of 2023

Pramila Jaiswal
Vs.
The Howrah Municipal Corporation & Ors.

With

W.P.A. 7690 of 2023

Sanjoy Pal & Anr.
Vs.
Howrah Municipal Corporation & Ors.

Mr. Purnasish Gupta,
Ms. Mary Datta
... For the petitioner in WPA 4433 of 2023.

Ms. Shebatee Datta,
Ms. Babita Dey
... For the petitioners in WPA 7690 of 2023
and for the respondent nos. 5 & 6 in WPA
4433 of 2023.

Mr. Pinaki Dhole,
Mr. Pinaki Bhattacharyya ... For the respondent no.
5 in WPA 7690 of 2023.

Mr. Ambarnath Banerjee,
Ms. Amrita Panja Moulick
...For the State in WPA 4433 of 2023.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder ... For the Howrah Municipal
Corporation in both the writ petitions.

The petitioner, Pramila, complains of illegal and unauthorized construction at the instance of the private respondents at P – 2, Natabar Pal Road, P.S. – Dasnagar, under the jurisdiction of Howrah Municipal Corporation, Borough – II.

Pramila submits that a civil suit is pending between the parties and an order of injunction has been passed by the learned Court below restraining the defendants i.e. Sanjoy Pal & Anr. not to indulge in any activity of making construction encroaching the land of the petitioner.

According to Pramila, Sanjoy Pal & Anr. are raising construction in violation of the order passed by the learned Civil Court and without obtaining any sanction from the Howrah Municipal Corporation. Objection filed against such unauthorized construction is pending consideration till date.

It appears that during the pendency of the writ petition filed by Pramila, Howrah Municipal Corporation inspected the property and passed an order of demolition. The said order of demolition is under challenge at the instance of Sanjoy Pal & Anr. in W.P.A. 7690 of 2023.

The Howrah Municipal Corporation passed demolition order on 18th March, 2023 by directing the person responsible to demolish the unauthorized construction of the iron frame structure/brick wall covering the area of 700 square feet approximately for C.I. Shed, which was constructed without any sanction plan.

It is the specific case of Sanjoy Pal and another that no inspection was conducted prior to passing the order of demolition. It has been submitted that the

structure in question with the boundary wall is very old and no new construction has been made. A portion of the structure being dilapidated collapsed and accordingly pillars were constructed to support the same. In view of the persisting water logging in the area, the ground floor level has been raised but apart from the same no further construction has been made.

Learned advocate representing the Howrah Municipal Corporation submits that the order of demolition was passed upon inspection. It has further been submitted that an opportunity of hearing was given to the parties prior to passing the order of demolition.

As an issue has been raised with regard to non-inspection of the site prior to passing the order of demolition, accordingly, for ends of justice, the Howrah Municipal Corporation is directed to conduct a further spot inspection upon prior notice to both the parties to ascertain the extent of unauthorized construction, if any.

The Officers of the Howrah Municipal Corporation shall take steps in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

Till a decision is taken by the Howrah Municipal Corporation, the parties are restrained from carrying on any construction work at the subject premises.

The impugned order of demolition dated 18th March, 2023 be kept in abeyance till a further order is passed by the Corporation upon inspection and hearing the parties.

The Officer-in-Charge, Dasnagar Police Station is directed to keep strict vigil over the property to ensure that no construction in any manner whatsoever is carried on at the subject premises till the matter is finally decided by the Howrah Municipal Corporation.

Both the writ petitions stand disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Amrita Sinha, J.)