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Ct 2023
No24
AGM

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

WPA 9037 of 2022

**Sri Neeraj Kumar Singh & Ors.
Vs
The Commissioner, Howrah Municipal
Corporation & Ors.**

**Mr. Sukumar Bhattacharya
Mr. Vikram Ojha
Ms. Oindrila Chatterjee**

... For the petitioners.

**Mr. Apurba Kumar Ghosh
... For the respondent nos. 3 and 5.**

**Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar**

... for the H.M.C.

The petitioners submit that the building standing at 25, Sailo Kumar Mukherjee Road, P. S. Golabari, District-Howrah under the Howrah Municipal Corporation was sanctioned as a residential building.

The private respondents are running a guesthouse and a banquet in the first, fifth and the hall of the subject building without conversion of the nature of use of the building.

The petitioners who are the residents of the flats in the said building are facing regular nuisance on account of the activities conducted in the banquet and the hall.

Objection filed by the petitioners before the Howrah Municipal Corporation has not been considered.

Learned advocate representing the private

respondents submits, upon instruction that, the business is being run in accordance with the certificate of enlistment issued by the HMC and the license issued under the West Bengal Fire Licenses Act by the Fire License section.

Learned advocate representing the HMC admits that certificate of enlistment was issued in favour of the private respondents.

The petitioners contend that the plan was sanctioned for a residential building. It appears that the Corporation has permitted commercial activity in the said building. Running of banquet hall is certainly a commercial activity which ought not to have been permitted prior to formal conversion in the nature of use of the subject property.

Commercial activity in the building ought not to have been permitted without affording a reasonable opportunity of hearing to all the other flat owners who have substantive right over the said property as they purchased the same being aware of the fact that the structure would be used only for residential purpose.

The objection filed by the petitioners is pending consideration.

In view of the above, the instant writ petition is disposed of by directing the Commissioner, HMC or his delegate to consider the objection filed by the petitioners on 16th April, 2022 in accordance with law after giving an opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to the

parties.

Effort shall be taken to conclude the proceeding at the earliest but positively within a period of six weeks from the date of communication of this order.

The aforesaid respondent shall also consider the prayer of the petitioners for passing necessary restraint order on commercial activity till the objection filed by the petitioners is disposed of.

Learned advocate for the petitioners is directed to forward a copy of the objection dated 16th April, 2022 and a photocopy of the sanctioned plan of the subject premises to the aforesaid respondents at the time of communicating the order of the Court.

It is made clear that the private respondents are restrained from accepting any further commercial booking of the banquet and the hall on and from today as there is no indication that the Corporation has permitted conversion in the nature of use of the subject property till date.

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.)