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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9655 of 2023

Debasish Chakraborty

Vs.

Howrah Municipal Corporation & Ors.

Mr. Tapas Mukherjee

Mr. Aftaf Hossain

Ms. Susmita Shaw

... For the petitioner.

Mr. Sandipan Banerjee

Mr. Ankit Sureka

Mr. Sobhan Majumder

... For Howrah Municipal Corporation

Mr. Kishore Datta, Sr. Advocate,

Mr. Arif Ali

Mr. Sayankat Das

Mr. Sarban Bhattacharjee

... For the respondent no.6.

Mr. Vivekananda Bose

Mr. Ratikanta Pal

... For the intervenors.

The petitioner complains of illegal and unauthorized construction at the behest of the respondent no. 6 at premises no. 11/7, Dharmatala Lane, Ward No. 26, Borough No. IV, under the jurisdiction of Howrah Municipal Corporation.

The petitioner complains that two additional floors have been constructed at the subject premises without any sanction. Construction has also been made in deviation of the plan sanctioned by the Corporation.

Further allegation is that the private respondent no. 6, being the developer of the property entered into a deed of amalgamation of the adjacent premises without the knowledge of the petitioner, who is the owner of the

subject premises.

A complaint was lodged before Howrah Municipal Corporation, but no steps have been taken to redress the same.

Learned senior advocate representing the respondent no.6, being the developer of the property denies the allegation of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned. It has also been submitted that the amalgamation was done in accordance with the provisions of law.

Oral submission has been made on behalf of some of the flat owners of the subject property. It has been submitted that any order passed by the Howrah Municipal Corporation in this regard may prejudicially affect the owners of the flat.

There is no instruction from Howrah Municipal Corporation.

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 respondent no.2 being the Municipal Commissioner, Howrah Municipal Corporation 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 legal representation dated 24th March, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The notice of hearing shall be pasted in all conspicuous places in and around the subject property so that all the flat owners are aware of the proceedings to be initiated by Howrah Municipal Corporation to deal with the allegation of unauthorized construction.

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.)