

14 & 15
26.06.2023
d.p.

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

WPA 26123 of 2022

**Sri Bikash Sandhukhan
Vs
The Howrah Municipal Corporation & Ors.**

WPA 9761 of 2023

**Sk. Khurshid @ Sk. Khursid & Anr.
-versus-
The Howrah Municipal Corporation & Ors.**

**Mr. Sandipto Basu,
Ms. Swapna Paul,
Mr. Someswar Dutta.
... For the petitioners
in WPA 26123 of 2022.**

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

**Mr. Debjit Mukherjee,
Mr. Debdut Mukherjee,
Mr. Gaurab Kr. Das.
... For the Petitioners
in WPA 9761 of 2023 and
for the Private Respondent in
WPA 26123 of 2022.**

**Mr. Susanta Pal
... For the State in
WPA 26123 of 2022.**

**Mr. Pinaki Dhole,
Ms. Tapati Samanta.
...For the State in
WPA 9761 of 2023.**

Both the writ petitions are taken up analogously.

Bikash Sandhukhan has filed the writ petition seeking implementation of the order of demolition passed by the Howrah Municipal Corporation on 16th July, 2022.

By the said order Sk. Khurshid, the person responsible for making unauthorized construction has been directed to demolish the unauthorized construction, details of which are mentioned in the order of demolition.

Allegation of Bikash Sandhukhan is that the order of demolition has not been implemented till date.

Sk. Khurshid has filed the writ petition alleging that the order of demolition was passed without affording a proper opportunity of hearing to him.

It has been submitted that this Court in WPA 21086 of 2021 (Bikash Sadhukhan -vs- Howrah Municipal Corporation & Ors.) specifically directed that an inspection is required to be conducted and report of inspection shall be prepared along with a sketch map indicating the extent and nature of unauthorized construction, if any, and the same shall be forwarded to the parties.

Allegation of Sk. Khurshid is that inspection report was not forwarded to him.

It has been submitted that the date of hearing was fixed by the Corporation on 17th June, 2022. A prayer for adjournment was filed by Sk. Khurshid before the Corporation on 14th June, 2022 citing medical emergency.

Sk. Khurshid submits that he was not made aware as to whether the adjournment was granted or not and the next date of hearing was also not communicated to him.

Sk. Khurshid prays for setting aside the impugned order of demolition.

The Corporation has recorded in the impugned order that hearing was conducted on 29th June, 2022. There is nothing on record to show that the said date of hearing was intimated to Sk. Khurshid.

It appears from the documents annexed to the writ petition and upon hearing the submissions made on behalf of both the parties that Bikash Sandhukhan has drawn attention of the Howrah Municipal Corporation with regard to the unauthorized construction made by Sk. Khurshid in the adjacent premises.

The details and extent of unauthorized construction is mentioned in the order of demolition dated 16th July, 2022.

It appears therefrom that the Corporation sanctioned plan for construction of a G+2 storied building. The person responsible constructed three additional floors without any sanction. Apart from the additional floors there are lateral deviations.

An inspection has already been conducted to ascertain the nature and extent of unauthorized construction.

For ends of justice and to put an end to the dispute once and for all let inspection report be forwarded to both the petitioners and a fresh date of hearing be fixed by the Corporation.

A conclusion to be arrived by the Corporation at the earliest, but positively within a period of ten weeks from the date of communication of this order.

The Corporation shall take note of the procedure as laid down by this Court on 24th March, 2022 in WPA 21086 of 2021.

Till a fresh order is passed by the Corporation upon hearing both the parties, the order of self-demolition dated 16th July, 2022 shall be kept in abeyance.

In the event the Corporation requires the assistance of the police for the purpose of vacating and demolition of the unauthorized structure, if any, then, the Officer-in-Charge of the Malipanchghora Police Station shall render all necessary help and assistance to the men and agents of the Howrah Municipal Corporation, if sought for.

As the Corporation has already come to a preliminary finding that there are unauthorized construction, the person responsible that is Sk. Khurshid is restrained from transferring/alienating or creating any third party interest over the portion held to be unauthorized till a final decision is arrived at by the Corporation in the matter.

Both the writ petitions stand 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.)