

02
22.06.2023
d.p.

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

W.P.A 9842 of 2023

**Sri Indrajit Chatterjee & Anr.
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Tanmoy Mukherjee,
Mr. Debdhut Mukherjee,
Mr. Gaurab Kumar Das,
Ms. Piyali Dutta,
Mr. Souvik Das,
Mr. Rudranil Das.
...For the Petitioners.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners are aggrieved by the follow up steps taken by the Howrah Municipal Corporation to implement the order of demolition passed on 20th September, 2022.

A notice was issued on 18th April, 2023 directing the petitioners to vacate the subject premises so that the portions which were constructed in deviation of the sanctioned plan can be demolished.

According to the petitioners, the deviated area ought to be treated as a minor one.

Prayer for regularization is pending consideration before the Howrah Municipal Corporation.

The petitioners have also expressed their desire to pay fine for regularization of the construction made.

From the figures mentioned in the order of demolition it appears that the structure in question is a G+1 storied one. There is deviation of 16.646 sq.mt. in each floor. According to the petitioners, the calculation of the deviated area is incorrect.

It has been submitted that the Corporation ought to have exercised their jurisdiction to treat a portion of the deviated area as a minor one and the rest portion may be permitted to be demolished by the petitioners.

The petitioners have given an oral undertaking before the Court through the learned advocate that the petitioners would self-demolish the portions which the Corporation would direct after the Corporation takes into consideration their prayer for regularization in terms of the as-made plan submitted by the petitioners before the Corporation.

The Assistant Engineer, Borough-VII is directed to forward a copy of the inspection report to the petitioners.

The petitioners shall be entitled to file an exception to the same. An opportunity of hearing shall be given to the petitioners and all other necessary parties and the aforesaid respondent shall take a decision with regard to the portions which are required to be demolished by the petitioners being unauthorized

after consideration of the as-made plan submitted by the petitioners.

A decision shall be taken in the matter at the earliest, but positively within a period of four months from the date of communication of a copy of this order.

Till a decision is taken by the aforesaid respondent, the impugned order of demolition and the impugned notice dated 18th April, 2023 directing the petitioners to vacate the subject premises shall be kept in abeyance.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)