

4 & 5
22.06.2023
Ct. No. 15
adeb

W.P.A. 11242 of 2017

**Prodyut Kundu @ Prodyut Kumar Kundu & Ors.
Vs.
Howrah Municipal Corporation & Ors.**

with

W.P.A. 12542 of 2009

**Smt. Sipra Som & Anr.
Vs.
State of West Bengal & Ors.**

Mr. Sayan Sinha
Mr. Adil Naser

...for the petitioners in WPA 11242 of 2017
& for the respondent
Nos. 7, 8, 10 & 11 in WPA 12542 of 2009

Mr. Amitava Pain
Mr. Subhranghsu Dutta
Mr. Vivek Kumar Tripathi

...for the petitioner in WPA 12542 of 2009
& for the respondent Nos. 6 & 7
in WPA 11242 of 2017

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder

...for the HMC

Pursuant to the order dated 18th May, 2023 two writ petitions are taken up for consideration today on the basis of the report submitted by the Assistant Engineer, Borough-VII of Howrah Municipal Corporation dated 21st June, 2023. Such report dated 21st June, 2023 of Assistant Engineer, Borough-VII is filed today before this Court and the same is taken on record.

Vide order dated 18th May, 2023 this Court directed Assistant Engineer, Borough-VII of Howrah Municipal Corporation to consider the issue as well as

grievance of petitioners in both the writ petitions on 12th June, 2023 in presence of the petitioners or their representatives and to prepare a report and the same be placed before this Court on the adjourned date.

Today, report has been filed by the Assistant Engineer, Borough-VII containing his decision relating to the prayer of the petitioners in WPA 11242 of 2017 concerning retention of deviations upon payment of fees. It appears from such decision as contained in report dated 21st June, 2023 of the concerned authority of Howrah Municipal Corporation that the prayer of retention of the petitioners in WPA 11242 of 2017 upon payment of fees is impermissible under the Howrah Municipal Corporation Act, 1980 based on “As-Made Plan”. Accordingly, petitioners in WPA 11242 of 2017 are directed by the corporation to demolish the deviated portions by way of self demolition and in default of the same the Howrah Municipal Corporation has decided to demolish the said structure.

In view of aforesaid decisions of the concerned authority of Howrah Municipal Corporation the grievance of the petitioners in WPA 12542 of 2009 stands redressed since challenge has been thrown to the decision of retention on payment of fees based on “As-Made Plan”.

Accordingly, both the writ petitions being WPA 11242 of 2017 and WPA 12542 of 2009 stand disposed of.

However, this order shall not preclude the petitioners in WPA 11242 of 2017 to take steps in accordance with law against the decision as contained in report dated 21st June, 2023 of the Assistant Engineer, Borough-VII, if so advised.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)