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09.01.2023
d.p.

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

W.P.A 11852 of 2021

**Sachindra Nath Kundu
-versus
The State of West Bengal & Ors.**

**Mr. Nilanjan Bhattacharjee,
Mr. Arpan Guha,
Mr. Abhilash Chatterjee.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Ms. Sonal Sinha,
Mr. Sobhan Majumder.
...For HMC.**

**Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das.
...For the Respondent
Nos. 6 to 10.**

Exception to the report filed by the petitioner is taken on record.

The petitioner is facing an order of demolition.

The Howrah Municipal Corporation has mentioned in the demolition order that the construction is fully unauthorized, starting from the ground floor to the 3rd floor of the premises, approximately 296.966 sq.mt.

The petitioner submits that an application for regularization of the said construction is pending consideration at the end of the Howrah Municipal Corporation.

According to the provisions of law, a person is entitled to make construction only after obtaining permission/sanction from the municipal authority.

In the present case, admittedly, the petitioner made construction without any sanction. When an order of demolition has been passed, the petitioner applied for regularization of the same.

The same cannot be permitted to be considered, more so because of the reason that, in case of unauthorized construction facing order of demolition, application will be filed by the erring builders to regularize the unauthorized construction. The order of demolition can never be implemented in such a situation. The same is contrary to the provisions of law.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The Howrah Municipal Corporation is directed to take steps for implementing the order of demolition in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

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.)