

13.03.2023
Item No. 10 & 11
AGM

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

W.P.A. 21332 of 2021

**Sri Kunal Hazra & Ors
-versus
Howrah Municipal Corporation & Ors.**

With

WPA 12073 of 2022

**Pritam Hazra & Anr
Vs
The Howrah Municipal Corporation & Ors**

**Mr. Nilanjan Bhattacharya,
Mr. Abhilash Chatterjee.
...For the Petitioners.**

**Mr. Sandipan Baneerjee,
Mr. Ankit Sureka,
...For HMC.**

W.P.A. 21332 of 2021

The petitioners complain of illegal and unauthorised construction at the instance of the private respondent at RS & LR Dag No. 3618, R.S. Khatian No. 596, Mouja Baltikuri, PS. Dasnagar Ward No. 50 under the jurisdiction of Howrah Municipal Corporation. The objection filed before the Howrah Municipal Corporation is pending consideration till date.

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.1 being Howrah Municipal Corporation to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners immediately thereafter.

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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward a copy of the representation dated 22nd December, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

WPA 12073 of 2022

None appears on behalf of the petitioners at the time of call.

The petitioners allege illegal and unauthorised construction at the instance of the private respondents at RS & LR Dag No. 3618, R.S. Khatian No. 596, LR Khatian No. 343, 344 measuring about four cottahs seven chittaks.

Learned advocate for the private respondents submits that the present writ petition has been filed as a counter blast to the earlier writ petition filed by them being WPA 21332 of 2021.

It has been denied that the private respondents are guilty of making any unauthorised construction as alleged or at all.

As it appears that the representation of the petitioners 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.1 being Howrah Municipal Corporation to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners immediately thereafter.

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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated June 3rd, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

In the order dated 7th February, 2023 passed in the aforesaid writ petitions, the appearance of the learned advocate representing Howrah Municipal Corporation in WPA 12073 of 2022 was wrongly mentioned.

The Howrah Municipal Corporation was and is represented by Mr. Sandipan Banerjee, Mr. Santanu Chatterjee in WPA 12073 of 2022.

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.)