

Item No.4

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

27.03.2023
Ct-24

WPA 14823 of 2021
Md. Moosud Alam

v.

The Howrah Municipal Corporation & Ors.

Mr. Anil Kumar Chatterjee
Mr. Dinesh Pani
... for the petitioner.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Debjani Sengupta
Ms. Riya Ghosh
... for the Bally Municipality.

Mr. Sandipan Banerjee
Mr. Sobhan Majumdr
... for HMC.

The petitioner is aggrieved by the notice of the Howrah Municipal Corporation whereby the Corporation was of the opinion that there has been deviation at the time of making construction and, accordingly, directed the petitioner to demolish the deviated portion. The said notice was issued in August 2021. Presently, the premises in question is falling within the jurisdiction of the Bally Municipality.

The learned advocate for the Bally Municipality submits that the documents of the proceeding detecting unauthorized construction were not forwarded to the Bally Municipality.

Without going into the issue as to whether the documents were forwarded by the Howrah Municipal Corporation to the Bally Municipality or not, let the Bally

Municipality initiate fresh proceeding to take a decision in the matter.

Accordingly, the Bally Municipality is directed to cause spot inspection of the subject premises being premises no. 13, Md. Shamim Khan Road, Ward No. 58, Belur, Howrah-711202 upon prior notice to all the necessary parties and thereafter take a decision as to whether there has been any unauthorized construction or not. In the event, any unauthorized construction is detected, then, necessary consequential steps shall be taken in accordance with law to deal with the same.

The spot inspection report shall be forwarded to the petitioner and a hearing shall be conducted prior to passing any final order in the matter.

The Bally Municipality is directed to conclude the proceeding at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The impugned notice dated August 7, 2021 issued by the Howrah Municipal Corporation is set aside.

The petitioner shall be obliged to produce the sanctioned plan pursuant to which the construction was made at the subject premises.

The appearances of the learned advocates representing the Howrah Municipal Corporation were inadvertently not recorded in the order dated February 20, 2023. Let it be recorded that Mr. Sandipan Banerjee and Mr. Sobhan Majumder, learned advocates represented the Howrah Municipal Corporation before this Court on February 20, 2023.

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.

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(Amrita Sinha, J.)