

Item No. 77(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

9.01.2023
Ct-24

WPA 14915 of 2021
Sri Ravi Sonkar

v.

Howrah Municipal Corporation & Ors.

Mr. Rishab Karnani
Mr. Arjun Mookherjee
... for the petitioner.

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

None appears on behalf of the private respondents despite service.

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

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents at 80/4, M.C. Ghosh Lane, Ward No. 19 under the jurisdiction of the Howrah Municipal Corporation.

The petitioner refers to a communication made to the petitioner under the Right to Information Act by the Executive Engineer, Building Department of the Howrah Municipal Corporation informing the petitioner that sanction for construction of G+3 storied building was granted by the Howrah Municipal Corporation for making construction at the subject premises.

The petitioner submits that the private respondents raised G+5 storied building i.e. two additional floors

have been constructed without obtaining any sanction from the Howrah Municipal Corporation.

The petitioner objected to the same by filing representations and alleges that none of the representations has been taken up for consideration till date.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of in the following manner.

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. 2, the Commissioner, Howrah Municipal Corporation or his delegate to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner 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 petitioner 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 petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated March 24, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

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.)