

WPA 14277 of 2023

Sri Atanu Kumar Dey

-vs-

The Howrah Municipal Corporation & ors.

Mr. Sanjib Seth

Mr. Utsa Dutta

....for the petitioner

Mr. Sailendra Nath Chakraborty

Mr. Sankha Prasad Ray

...for the State

Mr. Sandipan Banerjee

Mr. Ankit Sanka

...for the Howrah Municipal Corporation

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the co-sharer of the property at 222/2/1, Belilious Road, Police Station- Bantra, District- Howrah, Pin- 711 101. The petitioner had obtained a sanctioned plan for construction. Thereafter he found some minor deviations and was going to take appropriate steps in this regard. Thereafter, he met some police personnel who came to the property and said that there were on notice from the Municipality to assist them in demolishing the illegal structure.

Upon inquiry, the petitioner learnt that earlier a show cause notice had been issued on another co-sharer. The said co-sharer filed a writ petition being WPA 5015 of 2022. By an order dated 30.03.2022 passed in such writ petition, the Court set aside the show cause notice and directed fresh

inspection and hearing of all interested parties before taking any decision. Yet, notice was again issued against such co-sharer and not against the present petitioner. No action for demolition can be taken without hearing the present petitioner as he is a co-sharer of the property.

Learned counsel appearing on behalf of the Howrah Municipal Corporation submits that there is a mistake in not issuing the show cause also to the present petitioner as he is indeed a co-sharer in the property. An appropriate notice will be issued to all the co-sharers and thereafter the matter will be decided.

In view of the above, the notices dated 07.06.2023 and 06.09.2023 issued by the Howrah Municipal Corporation are set aside.

The Howrah Municipal shall issue fresh notices to all the co-sharers including the petitioner before taking any steps regarding demolition of any illegal construction and otherwise, act in terms of the order dated 30.03.2022 passed by this Court in WPA 5015 of 2022.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

Parties shall act on a server copy of this order downloaded from the official website of this Court.

(Jay Sengupta, J.)

