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09.01.2023
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In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 15321 of 2021
Anand Narayan Singh

v.

Howrah Municipal Corporation & Ors.

Mr. Syed E Huda
Mr. Sushant Biswakarma
Ms. Mandira Tarat
... for the petitioner.

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

Mr. Srijib Chakraborty,
Mr. Aditya Mondal.
...for the Respondent No.9.

The petitioner alleges illegal and unauthorized construction at holding nos. 70 and 71 Sree Arabinda Road, P.O.-Salkia, P.S.-Golabari, Ward No. XI under the jurisdiction of the Howrah Municipal Corporation.

The petitioner claims to be a tenant in the said premises.

It is submitted that initially construction of a G+4 storied structure was made but later on the landlords/owners constructed additional 5th, 6th and 7th floors over and above the G+4 storied structure without obtaining any sanction from the Howrah Municipal Corporation.

The petitioner lodged complaint before the Commissioner of the Howrah Municipal Corporation in March 2021 and alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the private respondent no. 9 denies the allegations of the petitioner.

It has been submitted that the construction has been made in accordance with the revised building plan sanctioned by the Howrah Municipal Corporation.

None appears on behalf of the private respondent nos. 6, 7 and 8.

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

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 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, at the earliest, but positively within a period of three months from the date 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.

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 respondent authority will not decide the right, title and interest of the parties and will restrict the decision only with regard to unauthorized construction being made without a sanctioned plan.

The petitioner is directed to forward a copy of the representation dated March 15, 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.

(Amrita Sinha, J.)