

Ct. 24
Item No.04
22.06.2023
(Suvendu)

WPA 14662 OF 2023

**Sandipan Das & Anr.
Vs.
Howrah Municipal Corporation & Ors.**

Mr. Suddhasatva Banerjee
Mr. Rishav Singh
Mr. Anuraag Mitra
Mr. Sagar Mishra
Mr. Akash Mall

...for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. S. Majumder

.....for the HMC

The petitioners are aggrieved by the act of the Howrah Municipal Corporation in taking follow up steps pursuant to the order of demolition by the Corporation. Fact remains that in compliance of the direction passed by the Court on 8th November, 2021 in WPA 2256 of 2021 an inspection was conducted by the Corporation. The inspection report was also forwarded to the parties including the petitioners and the complainant sometime in June, 2022. A date of hearing was fixed by the Corporation on 30th July, 2022.

The petitioners contend that the notice of hearing dated 28th July, 2022 was received by the petitioners only on 30th July, 2022 and hence the

petitioners were unable to appear for hearing with all supporting documents on 30th July, 2022. A prayer for adjourning the hearing on 30th July, 2022 was duly submitted before the hearing officer on the self-same date.

The petitioners further submit that after the prayer for adjournment was made, no communication was made from the end of the Corporation. It is only on 16th June, 2023 the impugned notice directing the petitioners to vacate the subject premises was served upon the petitioners.

It has been submitted that as the Court directed that an opportunity of hearing to be granted to the parties prior to passing any final order, the Corporation ought to have afforded a further opportunity of hearing to the parties before passing the impugned order.

Learned advocate representing the Howrah Municipal Corporation draws attention to the inspection report dated 24th June, 2022. It has been submitted that the petitioners are guilty of raising additional floors being 2nd and 3rd floors without obtaining any sanction. There is deviation in the G+1 storied structure.

The Court is of the opinion that as there is an order passed by this Court directing opportunity of hearing to be given to the parties after handing over the inspection report, accordingly, the authority ought to act in accordance with the said direction of the Court. The petitioners, for some reason whatsoever, were unable to attend the hearing scheduled on 30th July, 2022.

In view of the above, the Assistant Engineer (Building Department), Howrah Municipal Corporation is directed to afford an opportunity of hearing to all the necessary parties positively by eight weeks from the date of communication of this order and pass a reasoned order and communicate the same to the parties within a fortnight thereafter. The aforesaid respondent shall not give any effect or further effect to the order of demolition and the impugned notice dated 16th June, 2023 prior to passing a reasoned order in the matter.

It is made clear that the aforesaid respondent shall not grant any unnecessary adjournment to either of the parties on the date scheduled for hearing. At least 48 hours' clear notice shall be given to the parties prior to the date of hearing.

The petitioners are, however, restrained from transferring, alienating or creating any third party

interest in respect of the subject structure, constructed unauthorizedly, as appearing in the inspection report till the matter is finally decided by the aforesaid respondent.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Amrita Sinha, J.)