

11.12.2023
court no. 25
serial no. 16
kaushik

WPA 16289 of 2023

Mr Kalipada Mondal
Vs.
The Howrah Municipal Corporation &
Ors.

Mr. Suman Basu,
Ms. Debanwita Pramanik, Advocates
... .. for the Petitioner

Mr. Ram Chandra Guchchait, Advocates
... .. for the respondent no. 6

Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhon Majumdar, Advocates
... .. for the HMC

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent. Complaint lodged against such unauthorised construction in pending consideration at the end of the Howrah Municipal Corporation (HMC).

Learned advocate representing the private respondent submits, upon instruction that, the present writ petition is a counter-blast to the earlier writ petition filed by the private respondent alleging unauthorised construction by the petitioner herein.

It has been submitted that the private respondent made the construction long back and is paying taxes in respect of the construction made.

Learned advocate representing HMC submits that an inspection was conducted and unauthorised construction has been detected. It has been submitted that a factory is running at the subject premises without any permission from the Corporation.

Be that as it may, as it appears that objection filed against the unauthorised construction is formally pending consideration at the end of the Corporation no useful purpose will be served by keeping the writ petition pending.

The writ petition is, accordingly, disposed of by directing the Howrah Municipal Corporation 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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.

As unauthorized construction has already been detected, the private respondent is restrained from making any further construction without obtaining sanction from the Corporation. The Corporation is directed to ensure that, no unauthorized construction is carried on at the subject premises.

The Corporation shall also ensure that no factory runs at the subject premises without obtaining proper license from the Corporation.

The petitioner is directed to forward a copy of the representation dated 28th April, 2023 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.)