

01-05-2023
Item No.16
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.16158 of 2019
Mukhtar Ahmed @ Mukhtar
-vs-
Howrah Municipal Corporation & Ors.

Mr. Ayan Mitra
Mr. Atanu Das ...for the petitioner

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder ...for the Corporation

The petitioner in this writ petition complains of illegal and unauthorised construction at the behest of the private respondent. An objection dated March 11, 2019 (p.25) with regard to that filed before the concerned authorities of the Howrah Municipal Corporation is pending consideration till date.

It has been submitted that a G+5 storied building has been constructed without obtaining any sanctioned plan at No.238/1/1, Belilious Road, P.S. Howrah within the jurisdiction of Howrah Municipal Corporation.

None represents the private respondent despite service. Affidavit of service filed be taken on record.

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, I am of the view that the writ petition may be disposed of by the following order.

The writ petition is accordingly disposed of by directing respondent no.2 being the Commissioner,

Howrah Municipal Corporation or his delegate to consider and dispose of the petitioner's representation strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan getting sanctioned or devoid of the sanctioned plan, then necessary steps shall be taken dealing with such unauthorized construction in accordance with law.

The concerned respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute between 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 petitioner's claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated March 11, 2019 to the aforesaid respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

[Amrita Sinha, J.]