

Item No.6

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.09.2023
Ct-24

WPA 17185 of 2023
Anirban Dey
v.
Howrah Municipal Corporation & Ors.

Mr. Sumitava Chakraborty
... for the petitioner.

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

Mr. Tanmoy Mukherjee
Mr. Debabrata Roy
... for the respondent no. 8.

Mr. Amitava Chaudhury
Mr. Biswajit Das
... for the State.

The self demolition notice issued by the Howrah Municipal Corporation on June 28, 2023 directing the owners and developers of the structure at premises no. 22, Ashutosh Mukherjee Lane, Ward No. 12 to demolish the unauthorized construction made in deviation from the sanctioned plan upto G+4 level and the fifth and sixth floor constructed without sanction at all is impugned in the present writ petition.

Specific submission made on behalf of the petitioner as well as the private respondent no. 8 is that the order of demolition was passed without granting any prior opportunity of hearing to them.

There is nothing on record to suggest that the order of demolition was passed after giving opportunity of hearing to the parties.

It appears from the impugned order of self demolition that notice was served by one Amitava Dey & others as owners and upon Rohit Gupta & others as developers.

The writ petitioner claiming to be one of the co-owners of the subject property and the private respondent claiming to be developer of the subject property contends that neither notice of inspection nor notice of the demolition proceeding was served upon them.

Without going into the allegation and counter allegation of the parties, to put an end to the dispute, the Court directs the Municipal Commissioner or his delegate to cause spot inspection upon prior notice to the parties and to circulate the report of spot inspection to the parties. Thereafter grant an opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to them.

If unauthorized construction is detected at the subject premises, then necessary steps shall be taken to deal with the same in accordance with law.

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

The impugned order of self demolition dated June 28, 2023 shall be kept in abeyance till a fresh order is passed by the aforesaid respondent in the instant matter.

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.

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(Amrita Sinha, J.)