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25.09.2023
d.p.

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

W.P.A 18334 of 2023

**Maya Rani Chowdhury
-versus
The Howrah Municipal Corporation & Ors.**

**Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Rudranil Das,
Mr. Soumava Santra.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

**Mr. Ejaz Khan,
Mr. Pradip Kumar De,
Mr. Amit Pachal.
...For the Private Respondents.**

The petitioner complains that plan was obtained by the private respondents upon perpetration of fraud and by misrepresenting the facts.

The petitioner submits that there is an existing title suit. The fact of pendency of the suit was not disclosed by the private respondents at the time of applying for obtaining sanction.

The Learned Court below was pleased to pass an order of injunction restraining the private respondents

from evicting or dispossessing the petitioner without due process of law.

The petitioner lodged complaint before the Howrah Municipal Corporation in July 2023 and alleges that the same has not been considered till date.

Learned advocate appearing for the private respondents submits that the tenancy of the petitioner is under a cloud.

Upon hearing the parties it appears that the fact that the suit is pending consideration is not denied by the private respondents. The said fact ought to have been disclosed by the private respondents before the Howrah Municipal Corporation at the time of making application for obtaining sanction of the building plan. The 'no objection' as required to be obtained from the tenant and submitted before the Corporation has not been obtained.

In view of the above, the Commissioner of the Howrah Municipal Corporation or his delegate is directed to consider and decide the objection filed by the petitioner seeking cancellation of the sanction issued in favour of the private respondents.

The objection shall be considered upon giving opportunity of hearing to all the necessary parties and upon perusal of the records produced by both the parties.

A reasoned order shall be passed and communicated to the parties.

Decision shall be taken at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

Till a decision is taken by the Corporation, the private respondents are restrained from initiating the construction work.

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.)