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09.10.2023
A.G.M.

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

W.P.A 18336 of 2023

**Shri Shibnath Mukherjee & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. S. P. Lahiri
Ms. Tithi Majumdar
Ms. Sharmistha China
...For the Petitioners.**

**Mr. Pritan Chowdhury
Ms. Dipa Bhattacharya
...For the State.**

**Mr. Srijib Chakraborty
Mr. Sumitava Chakraborty
...For the Respondent Nos. 8 and 9.**

**Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar
... For the H.M.C.**

The matter relates to unauthorised construction at 25, Ram Mohan Mukherjee Lane, Ward No. 32 under jurisdiction of Howrah Municipal Corporation.

The petitioners allege illegal and unauthorised construction of additional floors at the behest of the private respondent.

It appears that a writ petition was filed at the instance of the private respondents where order was passed by this Court on 29th September, 2023 in **WPA**

6552 of 2023 with IA No. CAN 1 of 2023 (Sudip Bhattacharya –Versus- The Howrah Municipal Corporation & Ors).

The Court recorded in the said order that inspection was duly conducted but the report of inspection is yet to be circulated.

Learned advocate representing the present writ petitioner submits that notice of inspection was not served upon his clients.

The HMC is directed to verify its records to ascertain as to whether notice of hearing was issued in favour of the present writ petitioners who claim to be the co-owners of the subject property. If records reveal that notice of spot inspection was not served upon all the co-owners of the subject property, then fresh spot inspection shall be conducted serving prior notice upon all the co-owners.

The report of spot inspection shall be circulated amongst all the parties and thereafter an opportunity of hearing shall be granted to all the necessary parties.

If it ultimately transpires that unauthorized construction exists, then necessary steps shall be taken by the Corporation to deal with the same in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The learned advocate for the petitioners is directed to forward the list of co-owners giving their names and addresses so that the notice of spot inspection may be served upon all the parties.

If any of the co-owners fail/ refuse to accept the notice of spot inspection or the notice of hearing, it will be open for the Corporation to affix the notice of spot inspection and notice of hearing in several conspicuous places of the subject property so that everybody is made aware of the proceeding before the Corporation.

The parties are restrained from making any construction over the subject property till the matter is finally decided by the Corporation.

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.)