

Court No. 24

WPA 19959 of 2023

12.12.2023

(AD 35)

(S. Banerjee)

Saukat Ali

Vs.

The State of West Bengal & Ors.

Mr. Sanjib Seth

...for the petitioner

Ms. Rupsha Chakraborty

Mr. D. Mukherjee

... for the State

Mr. Sandipan Banerjee

Mr. Ankit Sureka

Mr. Sobham Majumder

... for the Howrah Municipal Corporation

Name not given

...for the private respondent

Affidavit of service is taken on record.

The petitioner complains of an illegal and unauthorized construction at the behest of the private respondent at holding no. 39, Satkari Chatterjee Lane, Ward No. 19, Borough III, P.S. Howrah under the jurisdiction of Howrah Municipal Corporation.

Submission of the petitioner is that construction is being made without a sanctioned plan and without leaving the mandatory side open spaces. The complaint lodged against such unauthorized construction has not been disposed of till date.

Learned advocate representing the private respondents submits, upon instruction that, the existing one-storied building was in a very dilapidated

condition and only the roof of the said building has been covered with a shed. The private respondents deny the allegation of unauthorized construction.

Learned advocate representing the Corporation submits, upon instruction that, over and above the dilapidated one-storied building, two additional floors have been construction without obtaining any sanction.

The Officer-in-Charge of Howrah Police Station has forwarded a report to this Court wherefrom it appears that the building is a three-storied-under-construction.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 1 Howrah Municipal Corporation to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 5th August, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

Leave granted to the learned advocate appearing for the private respondent to file the Vakalatnama in the department by course of tomorrow.

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.)