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26.09.2023
Court No. 24
A.G.M.

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

W.P.A 20377 of 2023

**Ajay Kumar Das
-versus
The State of West Bengal & Ors.**

**Mr. Md. Sarwar Jahan
Mr. Arunava Maiti
Mr. Maidul Islam Kayal
...For the Petitioner.**

**Mr. Supriyo Chattopadhyay
Mr. Chiranjit Roy
... For the Private Respondent.**

**Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
... For the HMC.**

**Ms. Jhuma Chakraborty
Ms. Rupsha Chakraborty
... For the State.**

The order dated 25th May, 2023 passed by the Assistant Engineer Borough VII Howrah Municipal Corporation is impugned in the present writ petition.

The said order was passed allegedly in compliance of the direction passed by the Court in the earlier writ petition filed by the petitioner.

The allegation of the petitioner in the earlier writ petition was that the private respondent Raj Kumar Jana was raising unauthorised construction without

maintaining the mandatory side open spaces and without a valid sanctioned plan.

The Corporation heard the submission made on behalf of both the parties but did not discuss anything with regard to the alleged unauthorised construction of Raj Kumar Jana.

On the contrary, the Corporation directed the petitioner to self demolish the entire G+1 storied structure allegedly because the petitioner failed to produce the sanction plan thereof.

Learned advocate representing the petitioner submits that the petitioner was not having a copy of the sanctioned plan on the day of the hearing because the petitioner was not aware as to whether he had to produce the copy of his sanctioned plan. The petitioner was under the impression that the private respondent was supposed to produce his sanction plan.

Learned advocate representing the private respondent Raj Kumar Jana submits, upon instruction that, the construction was made in accordance with the plan sanctioned by the Corporation.

Upon hearing the submission made on behalf of the parties and upon perusal of the materials on record, it appears that the Corporation was directed to consider the objection filed by Ajay Das against Raj Kumar Jana. In the impugned order there is no mention with regard to the construction raised by Raj Kumar Jana.

The Corporation directed Ajoy Das to self demolish the construction. Both the parties submit

before this Court that they have their respective sanctioned building plans.

In view of the above, the order impugned dated 25th May, 2023 is set aside.

The Corporation is directed to cause fresh spot inspection of both the subject premises upon prior notice to the parties and allow the parties to produce documents in support of the construction made.

In the event, the parties fail to produce any document in support of the construction, then necessary steps to deal with the same shall be taken by the Corporation in accordance with law.

The entire exercise shall be conducted and concluded at the earliest, but positively with a period of twelve weeks from the date of communication of this order.

Leave is granted to the learned advocate for the private respondent to file the vakalatnama in the department by 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.)