

Item No.2

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.02.2023
Ct-24

WPA 21748 of 2022
Tapan Kumar Mondal

v.

The State of West Bengal & Ors.

Mr. Debasis Nandi
Mr. Kumaresh Dalal
... for the petitioner.

Ms. Piyali Sengupta
Mr. Ratul Das
... for the State.

Mr. Tanmoy Mukherjee
Mr. K. Raihan Ahmed
Mr. Rudranil Das
... for the respondent no. 9.

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

The petitioner prays for a direction upon the Howrah Municipal Corporation for demolition of the illegal and unauthorized construction at holding no. 64/4, Ichapur Road, P.S.-Bantra, Howrah as the same was constructed without a valid sanctioned plan.

The petitioner contends that the plan proposal submitted by the private respondent was refused to be sanctioned. The private respondent raised construction relying on a plan which was allegedly sanctioned in respect of Premises No. 64(P), Ichapur Road and not in respect of Premises No. 64/4, Ichapur Road.

The petitioner in his affidavit-in-reply at page 11 has annexed the reverse portion of the sanction plan in support of his submission that sanction of the plan proposal stood refused.

Learned advocate representing the private respondent denies the submission of the petitioner. In the affidavit filed by the private respondent, the photocopy of the sanctioned plan has been annexed. It appears therefrom that the premises number was mentioned as 64(P) and thereafter the same was struck off and mentioned as 64/4.

The document at page 11 of the affidavit-in-reply contains a seal of the Howrah Municipal Corporation mentioning that the said plan was sanctioned on October 27, 1989.

In the report filed by the Howrah Municipal Corporation it has been mentioned that a plan was sanctioned by the Howrah Municipal Corporation in the year 1989 for construction of G+1 storied building. After inspection it was detected that the private respondent erected a mezzanine floor in between the ground floor and first floor which is beyond the sanctioned building plan. A proceeding has been initiated to deal with the said unauthorized construction of approximately 70 sq. ft.

Learned advocate representing the private respondent submits that a civil suit being T.S. No. 1174 of 2022 has been filed before the learned Civil Judge (Junior Division), 2nd Court at Howrah arraying the Howrah Municipal Corporation and the petitioner herein as parties. An order of status quo has been passed by the learned Civil Court.

From the aforesaid facts it appears that the contention of the petitioner alleging construction being made without a sanctioned plan cannot be substantiated. The Corporation admits sanctioning of a building plan.

As regards the unauthorized construction of the mezzanine floor of 70 sq. ft., the same is under scrutiny before the learned Civil Court.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The Corporation is directed to take steps in accordance with law.

Affidavit filed by the private respondent and the affidavit-in-reply filed by the petitioner and exception to the report filed by the Howrah Municipal Corporation are retained with the records.

The report of the Officer-in-Charge, Bantra Police Station signed on September 26, 2022 be also retained with the records.

The writ petition is dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

Sh

(Amrita Sinha, J.)