

Item No.10

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.09.2023
Ct-24

WPA 21633 of 2023
Md. Rijwan & Anr.

v.

The State of West Bengal & Ors.

Mr. Sanjib Seth
... for the petitioners.

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

The matter relates to the unauthorized construction at premises no. 21+22, Rosun Goldar Lane, Ward No. 20 under the Howrah Municipal Corporation. The owners and the persons responsible by obtaining a sanctioned plan for construction of G+4 storied building, made construction of three additional floors without obtaining any sanction. The Howrah Municipal Corporation issued a self-demolition notice followed by a notice to vacate the unauthorized/deviated portions for proceeding with the demolition work. The petitioners are aggrieved by the same.

It has been submitted that the petitioners are the co-owners of the subject premises and no notice of hearing was given to the petitioners prior to passing the order of demolition.

Learned advocate for the petitioners has failed to produce any document in support of his submission that the Corporation was made aware about the status of the petitioners or about the ownership of the petitioners qua

the subject property. The records of the Corporation do not bear the name of the petitioners as co-owners of the subject property.

It appears that show cause notice was issued to as many as thirteen occupants of the subject structure. The names of the petitioners are, however, not appearing in the said notice.

It is evident that the petitioners were all along aware of the demolition proceeding but deliberately did not take any steps to contest the same with the sole intention to surface later on to stall the work of demolition.

The petitioners admit that construction was going on at the subject structure. There is nothing on record to suggest that the Deed of Partition relied upon by the petitioners were ever submitted before the Corporation. The Corporation was not made aware of the Deed of Partition and possibly for the said reason the notice of hearing was not issued upon the petitioners.

I have perused the Deed of Partition relied upon by the petitioners. The signature of the petitioner no. 1 as appearing in the Deed of Partition does not tally with the signature of the petitioner no. 1 appearing in the Vakalatnama. The name of the petitioner no. 1 has been spelt out differently.

The Court is not convinced with the submission made on behalf of the petitioners. The structure in question has gone up to a considerable extent in an unauthorized manner. The said structure ought not to be permitted to be retained.

In view of the above, the Court is not inclined to exercise jurisdiction in the matter.

The writ petition fails and is hereby dismissed.

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

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(Amrita Sinha, J.)