

Item No.18

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.01.2023
Ct-24

WPA 22616 of 2022
Sri Sudhanshu Kumar & Anr.

v.

The Howrah Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K.R. Ahmed
Mr. Rudranil Das
... for the petitioners.

Ms. Shebatee Datta
Ms. Poulami Roy
... for the respondent no. 7.

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

The petitioners complain of illegal and unauthorized construction at 81, Sri Ram Dhang Road, P.O.- Salkia, P.S. M.P. Ghorah, Ward No. 5 under the jurisdiction of the Howrah Municipal Corporation.

The petitioners claim themselves to be one of the developers of the structure constructed at the aforesaid premises on the basis of the power-of-attorney and the development agreement executed in their favour by the owners being the respondent nos. 7 and 8.

It has been submitted that massive unauthorized constructions have been made in deviation of the plan sanctioned and without any sanction at all.

Complaint lodged before the Municipality in September 2022 is yet to be answered.

None appears on behalf of the respondent nos. 5, 6 and 8.

Learned advocate representing the respondent no. 7 is not ready with proper instruction.

Learned advocate representing the Howrah Municipal Corporation submits that the objection is yet to be considered.

In view of the order that I propose to pass no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of in the following manner.

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. 2 or his delegate 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.

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 petitioner 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 received by the Howrah Municipal Corporation on September 7, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavits-of-service are taken on records.

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.)