

Item No.15

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.01.2023
Ct-24

WPA 22621 of 2022
Shyam Sunder Sharma

v.

The Howrah Municipal Corporation & Ors.

Mr. Pawan Kumar Gupta
Ms. Sofia Nesar
Mr. Santanu Sett
Mr. Soumya Khan
Mr. Jyotiraditya Mandal
... for the petitioners.

Mr. Gourav Das
... for the State.

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

The matter relates to unauthorized construction at 56/1, Khagendra Nath Ganguly Lane, Ward No. 12 under the jurisdiction of the Howrah Municipal Corporation. The Howrah Municipal Corporation sanctioned a building plan for construction of G+2 storied residential building at the aforesaid address.

The petitioner complains that construction of G+5 storied building has been made.

Learned advocate for the State respondents submits that additional floors have been constructed and proceeding under the Golabari Police Station Case No. 377 of 2022 dated October 1, 2022 under Sections 288/336 IPC & 177A of the Howrah Municipal

Corporation Act, 1980 was registered against the person responsible and the investigation of the case is proceeding.

None appears on behalf of the person responsible for making the construction.

Affidavit-of-service filed in Court today is taken on record.

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 petitioner 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 petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner 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 petitioner 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 petitioner.

The petitioner is directed to forward a copy of the representation dated September 9, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Instruction filed by the Officer-in-Charge, Golabari Police Station be kept on record.

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.)