

05. 13.04.2023
bd. Ct.15

W.P.A. 32252 of 2014
IA No. CAN 1 of 2019
(Old CAN No. 6129/2019)

Sri Pradip Dutta

-vs-

Bally Municipality & Ors.

Mr. Monojit Pal

... for the petitioner.

Mr. Ayan Banerjee

Ms. Debasree Dhamali

... for the Bally Municipality

In spite of service of notice upon the respondent nos. 7,8 and 9 no one is representing those respondents. Affidavit of service filed on behalf of petitioner is taken on record.

The matter is heard in presence of the learned advocates representing the petitioner and the Bally Municipality. During course of hearing the report of the Bally Municipality dated 10th March, 2023 which has been prepared on inspection pursuant to the order dated 16th February, 2023 passed by this Court is perused and it appears from the report that there are certain deviations in constructions made by the private respondents in 1/157, Mirpara Road, Liluah, Howrah. It has also been indicated in the report dated 10th March, 2023 that Howrah Municipal Corporation may have taken steps for regularisation of the constructions made by the private respondents vide BMR No. 197/16-17 during the period 2016-2017. It is required to be noted herein that Bally Municipality merged with

Howrah Municipal Corporation during the period from 2015 to 2021 and the steps for regularisation might have been taken by the concerned authority of Howrah Municipal Corporation during this period. Therefore it has been submitted on behalf of Municipality that due to the steps taken by the Howrah Municipal Corporation as indicated in the report dated 10th March, 2023 the status of alleged unauthorised construction gets altered and there is requirement to initiate de-novo proceeding under section 218 of the West Bengal Municipal Act, 1993 in order to find out the nature of construction work carried out by the private respondents.

Having considered respective submissions made on behalf of the petitioner and Bally Municipality this Court has been contemplating to give direction upon the concerned authority of Bally Municipality to give effect to the order dated 3rd August, 2013 and to carry out demolition work of the unauthorised portion in the aforesaid premises. Taking cue from the submissions made on behalf of Bally Municipality with regard to merger of Bally Municipality with the Howrah Municipal Corporation during the period from 2015 to 2021 it appears there might have been certain steps taken by the concerned authority of Howrah Municipal Corporation as indicated in the report dated 10th March, 2023. In view of such position as indicated in the report this Court finds it proper to direct the concerned authority of Bally Municipality to initiate the proceeding under section 218 of the West Bengal Municipal Act, 1993 in order to identify the unauthorised portion of the aforesaid premises

before taking appropriate steps.

However, it has been made clear that on separation of Bally Municipality from Howrah Municipal Corporation there ought not to be any confusion with regard to applicability of Section 218 of the West Bengal Municipal Act, 1993; the concerned authority of Bally Municipality shall be at liberty to take decision not being influenced by the steps taken by the Howrah Municipal Corporation.

In view of aforesaid discussions this Court directs the concerned authority of Bally Municipality to initiate proceeding under section 218 of the West Bengal Municipal Act, 1993 and bring the same to a logical conclusion within a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioner and the private respondents. It is made clear that at the time of taking decision Bally Municipality shall take into consideration the report which has been filed before this Court dated 10th March, 2023.

With the aforesaid direction the writ petition stands disposed of. However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

