

ADSL 02
11.01.2024
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 914 of 2024

**Biswajit Podder
-versus
Howrah Municipal Corporation & Ors.**

**Ms. Puja Beriwal.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
...For HMC.**

The petitioner is aggrieved by the order of demolition dated 6th December, 2023 passed by the Assistant Engineer-in-Charge, Building Department, Howrah Municipal Corporation in respect of the premises no. 133, Deshbandhu Sarani, P.S.- Santragachi, Ward No. 45, Howrah-711110.

The impugned order of demolition mentions that construction of additional floor has been made.

The petitioner contends that plan was sanctioned for construction of G+4 storied building. The Howrah Municipal Corporation erroneously found that only G+3 floors have been sanctioned.

The building sanctioned plan has been annexed to the writ petition from where it is evident that G+4 floors were sanctioned by the Corporation.

Apart from the additional floor that has been alleged to be constructed, there is a report of encroachment in the impugned order of demolition.

The petitioner submits that the petitioner was not forwarded the spot inspection report. The petitioner denies the figures mentioned in the impugned order of demolition.

The matter has been moved on urgent basis by taking leave of this Court at the first sitting alleging that the men and agents of the Corporation started demolishing the structure from yesterday i.e. 10th January, 2024.

The petitioner was directed to serve copy of the writ petition upon Mr. Sandipan Banerjee, learned advocate who usually represents the Howrah Municipal Corporation before this Court.

The Court has heard the submissions made on behalf of the petitioner and the Corporation and as it prima facie appears that the plan was sanctioned for construction of G+4 floors, accordingly, the finding of the Corporation that an additional floor was constructed unauthorizedly, appears to be incorrect.

To ascertain the exact area of unauthorized construction, a fresh spot inspection is required to be conducted upon prior notice to all the necessary parties. The Corporation is directed to forward the spot inspection report to the petitioner and the complainant. The details of the unauthorized construction shall be mentioned in the spot inspection report. Thereafter, an opportunity of hearing shall be granted to the parties

for placing their respective stand before the Corporation.

If ultimately it transpires that there is any unauthorized construction, the Corporation shall take steps to deal with the same in accordance with law.

The Corporation shall endeavour to conclude the proceeding at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The impugned order of demolition stands set aside.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)