

29.07.2024
Sl. No.20 & 21
Ct. No.15
S.A.

WPA 1137 of 2023

K.S.S. Construction Private Limited
-vs-
Howrah Municipal Corporation & Ors.

with

WPA 1607 of 2023

Mohammad Imran
-vs-
Howrah Municipal Corporation & Ors.

Mr. Saptansu Basu
Mr. Ayan Banerjee
Ms. Mrinalini Majumdar
...for the petitioner in WPA 1137 of 2023
Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K. R. Ahmed
Mr. Rudranil Das
Mr. Soumava Santra
...for the petitioner in WPA 1607 of 2023
Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhon Majumder
...for Howrah Municipal Corporation
Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K. R. Ahmed
Mr. Rudranil Das
Mr. Soumava Santra
...for respondent no.5 in WPA 1137 of 2023
Mr. Saptansu Basu
Mr. Ayan Banerjee
Ms. Mrinalini Majumdar
...for respondent no.5 in WPA 1607 of 2023

The petitioner in WPA 1607 of 2023
(Mohammad Imran) approached this Court on an
earlier occasion by filing WPA 9270 (W) of 2022
(Mohammad Imran vs. Howrah Municipal
Corporation) alleging unauthorised construction at

the behest of the petitioner in WPA 1137 of 2023 (K.S.S. Construction Private Limited). It was submitted that K.S.S. Construction obtained the sanctioned plan by suppressing material facts and as such the same was liable to be cancelled in terms of Section 175B of Howrah Municipal Corporation) Act, 1980.

The said writ petition was disposed of by a Coordinate Bench of this Court by an order dated August 30, 2022, giving a direction upon the Corporation to consider the grievance of the petitioner in accordance with law.

In compliance with the said order of August 30, 2022, the Corporation passed an order on December 17, 2022. The operative part of the order is quoted below :

“That the respondents have violated the HMC Act 1980 and KMC Building Rules 1990 as extended to Howrah and the respondents are hereby directed to cause Self Demolition of the deviated portions as mention in the Inspection Report within 15 days from the date of receipt of this order and in default HMC will cause demolition of the deviated portions and the costs of such demolition will be borne by the respondents.”

By filing these two writ petitions, Mohammad Imran as well as KSS Construction Private Limited

has challenged the said order dated December 17, 2022, passed by the Corporation.

Mr. Saptansu Basu, learned senior advocate appearing on behalf of K.S.S. Construction Private Limited submits that a bare perusal of the order impugned makes it clear that the petitioner has not yet completed the construction work and as such the unauthorised construction/deviation, if any, can be regularised in terms of Rule 26(2)(a) of Kolkata Municipal Corporation Building Rules, 2009 as adopted by Howrah Municipal Corporation.

On behalf of Mohammad Imran, it has been submitted that the said provision does not provide for a post facto regularisation of an unauthorised construction. The said provision allows addition/alteration during a construction work with prior permission from the Corporation.

It has been further submitted by Mohammad Imran that the allegation of suppression of material facts against K.S.S. Construction Private Limited in obtaining the sanctioned plan was not considered by the Corporation.

K.S.S. Construction Private Limited, however, submits that it has made a representation dated July 16, 2024, before the Corporation for regularisation of the unauthorised construction. If the Corporation, after consideration of the representation, passes a

direction to remove the unauthorised construction, it will remove the same.

In view of the aforesaid stands taken by K.S.S. Construction Private Limited, I am not inclined to keep this writ petition pending.

Accordingly, I dispose of these writ petitions with a direction upon Howrah Municipal Corporation to consider the representation of the petitioner dated July 16, 2024 in accordance with law. In passing the said order, the Corporation shall also consider the allegation of suppression of material facts in obtaining the sanctioned plan as made by Mohammad Imran.

Let such exercise be completed within a period of one month from the date of communication of this order after giving opportunity of hearing to Mohammad Imran and K.S.S. Construction Private Limited.

A reasoned order should be communicated to the parties within a period of seven days thereafter.

Let the supplementary affidavit by K.S.S. Construction Private Limited be kept with the records.

Accordingly, **WPA 1137 of 2023** and **WPA 1607 of 2023** are disposed of.

(Kausik Chanda, J.)