

27.09.2024
ct. 6/SI. No.14
tkm

MAT 289 of 2024
CAN 1 of 2024
Kalipada Mondal Anr.
Vs
Howrah Municipal Corpn. & Ors.

Mr. Suman Basu
Ms. Debanwita Pramanik
...for the appellants

Mr. Sandipan Banerjee
Mr. Ankit Sureka
...for HMC

1. By impugned order Hon'ble Judge while calling upon the writ petitioner to file reply to the opposition filed by the appellants directed the private respondent to undertake self demolition and in the event they failed to do so the Howrah Municipal Corporation was to take steps for demolition of the unauthorized structure.

2. Learned counsel for the appellants contends inspection report relying on which the order was passed is not correct and the matter required to be decided after considering the stance of the appellant in their affidavit filed before the Hon'ble Judge.

3. We have considered her submission in light of the materials on record. The notice of self demolition dated 7.11.2023 was assailed by the appellant in WP2 6286 of 2023. By order dated 11.12.2023 another Hon'ble Judge without setting aside the notice directed the Howrah Municipal corporation to communicate to the appellant the details and specification of the unauthorized structure and

the appellant was at liberty to take steps in accordance with law.

4. In the meantime, in the present writ petition, inspection report dated 16.10.2023 noting deviations from the sanction plan was filed. Hon'ble Judge after perusing the inspection report and the affidavit-in-opposition filed by the appellant, directed the writ petitioner to file his reply simultaneously Hon'ble Judge directed self demolition.

5. In view of the fact that the Hon'ble Judge had directed the writ petitioner to file reply to the opposition submitted by the appellants and had posted the matter for hearing, impugned direction for self demolition at the same time was justified and it would render the writ petition infructuous.

6. In such view of the matter we set aside the interim direction with regard to self demolition and in the alternative demolition of the unauthorized structure by Howrah Municipal Corporation.

7. We make it clear we have not expressed any opinion with regard to merits of the case which shall be decided independently and in accordance with law.

8. With the above directions, appeal is disposed of.

(Gaurang Kanth J.)

(Joymalya Bagchi, J.)