

Item No.183-ML

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.05.2024
Ct-24

WPA 3880 of 2024
Sri Balai Mondal & Ors.

v.

The Howrah Municipal Corporation & Ors.

Mr. Tanmoy Mukherjee
Ms. Debanwita Pramanik
Mr. Souvik Das
Mr. Raihan Ahmed
Mr. Soumavo Santra
... For the petitioners.

Mr. Mrityunjoy Goswami
Mr. Arijit Sarkar
... for the State.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
Ms. Shetparna Roy
... for HMC.

The petitioners are aggrieved by the notice issued under Section 177(1) of the Howrah Municipal Corporation Act, 1980 in respect of the unauthorized construction at 65/2, Kala Chand Nandy Lane, Ward No. 24 under the jurisdiction of the Howrah Municipal Corporation.

Specific contention of the petitioners is that there is a sanction for raising construction upto G+3 storey and in the fourth floor, the casting of the roof has not yet been done. The impugned notice of self-demolition, however, mentions that the 4th floor has been constructed without any sanctioned plan.

As regards the deviation upto the 3rd floor, the details thereof are not mentioned.

None represents the private respondents.

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

Learned advocate representing the Corporation submits, upon instruction that, an inspection is required to be conducted to ascertain as to whether the 4th floor casting has been done or not.

Upon hearing the submission made on behalf of the parties and upon perusal of the impugned notice issued under Section 177(1) of the Howrah Municipal Corporation Act, 1980 the Assistant Engineer (in-charge) Building Department is directed to cause a spot inspection to ascertain the exact nature and extent of the unauthorized construction upon prior notice to all the necessary parties.

The spot inspection report shall be circulated and thereafter an opportunity of hearing be granted to the parties.

After hearing if it ultimately transpires that unauthorized construction exists, then necessary steps shall be taken by the Corporation to deal with the same in accordance with law.

Steps shall be taken in the matter at the earliest but positively within a period of sixteen weeks from the date of communication of this order.

Till a fresh decision is taken in the matter, the impugned notice dated January 31, 2024 shall be kept in abeyance.

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.

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(Amrita Sinha, J.)