

07 12.03.2024
NB Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 5239 of 2024

Associated Construction represented
by its sole Proprietor Sumit Mukherjee
Vs.
The Howrah Municipal Corporation & Ors.

Mr. Sumitava Chakraborty,
Ms. Bratati Pramanick.
...for the petitioner.

Mr. Pinaki Dhole,
Ms. Tapati Samanta.
...for the State.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.
...for the Howrah Municipal Corporation.

This matter relates to an unauthorised construction at 55/6, P.K. Roy Chowdhury Lane under Ward No.39 of the Howrah Municipal Corporation.

According to the Corporation, there is an additional floor i.e. the 3rd floor constructed over and above the sanctioned G+2 storey. The construction made in the G+2 storey is also in deviation of the plan sanctioned. The order of demolition passed by the Corporation, is assailed by the petitioner in the instant writ petition.

It has been submitted that spot inspection was not conducted prior to the issuance of the order of demolition to ascertain the exact nature and extent of the deviation.

Admittedly, the unauthorised portions are directed to be demolished by the person responsible. Time to demolish the unauthorised portion is long over.

As it has been strenuously asserted by the petitioner that the Corporation did not conduct any spot inspection prior to issuance of the order of demolition and there is nothing on record to suggest the contrary, accordingly, the Municipal Commissioner, Howrah Municipal Corporation or his delegate is directed to cause a spot inspection upon prior notice to the necessary parties to ascertain the exact nature and extent of unauthorised construction.

By consent of the appearing parties, the spot inspection is directed to be conducted on 21st March, 2024 at 2 pm.

Notice of hearing shall be given upon the respondent no.9 immediately.

At the time of spot inspection, photographs should be taken to be kept on record to identify the number of floors that have been constructed.

Report of spot inspection shall be circulated amongst the parties. The Corporation shall thereafter take necessary steps to deal with the unauthorised construction, if detected, and conclude the proceeding within a period of eight weeks from the date of circulation of the inspection report.

The order of demolition impugned in the writ petition is directed to be kept in abeyance till fresh order is passed by the Corporation.

The person responsible for making construction is restrained from raising any further construction and further

restrained from transferring/selling/alienating or creating third party interest over the subject property till the matter is finally decided by the Howrah Municipal Corporation.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)