

09 & 225
03.05.2024
d.p.

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

WPA 12685 of 2024

**M/s. Bol Bhai Bol Construction
-versus
Howrah Municipal Corporation & Ors.**

**Mr. Sumitava Chakraborty.
...For the Petitioner.**

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

**Mr. Santanu Kumar Mitra, SGA
Mr. Amartya Pal.
...For the State.**

**Mr. S.P. Lahiri.
...For the Private Respondents.**

With

WPA 11341 of 2024

**Tanima Das & Ors.
-versus-
The State of West Bengal & Ors.**

**Mr. S.P. Lahiri.
...For the Petitioners.**

**Mr. Sumitava Chakraborty.
...For the Respondent No. 10.**

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

The matter relates to the construction at 83, Nilmoni Mullick Lane, Ward No. 19 under the jurisdiction of the Howrah Municipal Corporation.

M/s. Bol Bhai Bol Construction filed the writ petition challenging the impugned order of self-demolition dated 9th April, 2024 issued by the Assistant Engineer-in-charge, Building Department, Howrah Municipal Corporation.

Specific submission is that no opportunity of hearing was given to the petitioner prior to passing the order of self-demolition. No inspection was conducted to ascertain the nature of deviation. The project is an ongoing one. Sanction has been granted for construction of G+4 storied building. The construction is yet to be complete.

Tanima Das & Ors. have filed the writ petition alleging illegal and unauthorized construction at the behest of M/s. Bol Bhai Bol Construction. According to Tanima Das, the construction is being made in such a manner that the mandatory side open spaces are not maintained. Tanima was admittedly granted opportunity of hearing. According to Tanima, hearing was granted to the construction Company also.

Learned advocate appearing for the Howrah Municipal Corporation submits that an inspection is required to be conducted to ascertain as to whether there has been any deviation or not.

In view of the above, both the writ petitions are disposed of by directing the Corporation to conduct fresh spot inspection upon prior notice to both the parties to ascertain the exact nature and extent of

unauthorized construction, if any. The report of spot inspection shall be circulated amongst the parties. An opportunity of hearing shall be given thereafter. If it ultimately transpires that there is any unauthorized construction, then necessary consequential steps shall be taken by the Corporation to deal with the same.

Till the matter is decided by the Corporation, no construction beyond the sanctioned plan shall be done at 83, Nilmoni Mullick Lane. The Officer-in-Charge of the Howrah Police Station is directed to keep strict vigil over the property to ensure that no construction beyond the sanctioned plan is carried on at the subject premises.

The construction Company is restrained from transferring/selling/alienating the subject property in favour of any third party until the matter is finally decided by the Corporation.

The Corporation is directed to take steps in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The impugned order of self-demolition dated 9th April, 2024 is directed to be kept in abeyance till a fresh order is passed by the Corporation.

Both the writ petitions stand 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.)