

D/L
Item No. 05
16.05.2024
KOLE

WPA 15114 of 2023

**Asgar Ali Ansari @ Asgar Ali & Anr.
-Vs.-
The State of West Bengal & Ors.**

Mr. Sanjib Seth,
... for the petitioners.

Mr. Arup Kumar Mondal,
Mr. Vijay Agarwal,
... for the State.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder,
... for the HMC.

1. Mr. Sanjib Seth, learned Counsel appearing on behalf of the petitioners is present.
2. Mr. Arup Kumar Mondal, learned Counsels appearing on behalf of the State is also present.
3. It is stated that the petitioner no. 1 is one of the co-sharers of the property situated at holding No. 93/1, Jolapara Masjid Lane, District Howrah, within the jurisdiction of Howrah Municipal Corporation (in short 'the HMC'). The petitioner no. 1 entered into an agreement for developing the aforesaid property with the respondent no. 8 and to that extent a power of attorney was executed in his favour. It is alleged that without getting any sanctioned plan from the appropriate authority the respondent no. 8 has already constructed G+4 storied building on the said holding which is completely illegal. It is further stated that the respondent no.8 illegally inducted the respondents no(s) 9 to 12 on the said holding who are nothing but trespassers.
4. The petitioner no. 2 made several representations before the appropriate authorities to take appropriate step against such alleged illegal and unauthorized construction made by the private respondent no.8 but the authorities

concerned did not put any heed to the representation made by the petitioner no. 2. The petitioners state that they are in deep mental trauma due to such illegal and unauthorized construction made by the respondent no.8 and apprehend loss of life and property as the building may collapse and fall down at any time.

5. At the time of hearing, attention of this court is drawn by the learned Counsel appearing on behalf of the petitioner to the representation made by the petitioner no. 2 which is annexure “P2” of the present writ petition.

6. Learned Advocate appearing for the State submits that no document has been filed on behalf of the petitioner to show the ownership of the property in question. Under such circumstances, he has no *locus standi* to file the present writ petition.

7. From annexure “P2” of the writ petition, it appears that one complaint was made by the petitioner in respect of the alleged illegal construction situated at holding No. 93/1, Jolapara Masjid Lane, PO and PS Howrah and from page no(s). 35 to 36 it appears that complaints were also made before the other authorities against the said alleged unauthorized construction allegedly made by the private respondent no.8.

8. At the time of hearing, learned Advocate appearing for the State submits a report made by the Officer in Charge, Howrah P.S, H.P.C. from which it appears that the construction of G+4 storied building has already been stopped. It further appears from the said report that several correspondences were found with the Officer in Charge, Borough-III, HMC and Officer in Charge, Town Survey, Howrah and the Commissioner, HMC regarding the allegation of illegal construction made by the petitioners but no step has been taken by the concerned authority. Let the report be kept with the records.

9. The respondent no. 3, being the Commissioner, HMC is hereby directed to take appropriate steps over the representation made by the present petitioner addressed to him dated 05.06.2023 within a month from the date of

communication of the order as per the relevant provisions of law.

10. The respondent no.3 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the application filed by the petitioners.

11. The aforesaid respondent shall restrict the consideration of the representation of the petitioner with regard to construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

12. The respondent no. 3 is also directed to pass a reasoned order and communicate the same passed by it over the representation made by the petitioner to the parties concerned immediately thereafter.

13. Let a copy of this order be communicated to the respondent no. 3/the Commissioner, HMC along with a copy of annexure 'P2' appended with the writ petition and the annexures as filed with the writ petition i.e. from page 32 to 36.

14. All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the authority.

15. WPA 15114 of 2023, stands disposed of,

16. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Prasenjit Biswas, J.)