

Ml- 01.04.2024
109 Ct.15
rkd

W.P.A. 15182 of 2018

Prem Sagar Arya & Ors.

-vs-

The Howrah Municipal Corporation & Ors.

Syed Nurul Arefin,
Mr. Rahul Singh,
Ms. Rashmi Binayak,
Mr. Sanju Agarwal

....for the petitioners.

Mr. Raghunath Das,
Ms. Monalisa Das

....for the respondent no.6.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka

....for the HMC.

The writ petition has been instituted by tenants who are residing at 4, Raja Ballav Saha 2nd Bye Lane under Ward No. 28 within the jurisdiction of Howrah Municipal Corporation and has made a prayer for providing water supply to them individually by the concerned authority of Howrah Municipal Corporation (hereinafter referred to as "HMC").

It has been submitted on behalf of the petitioners that the civil Court vide order dated 31st October, 2017 passed in connection with Title Suit No.9 of 2012 has passed an order which confers right upon the petitioners to get separate water supply by making separate arrangements by the HMC. According to the petitioners till date apart

from water connection which has been provided to the landlord of the aforesaid premises no separate water connections have been provided to them which warrants immediate intervention by this Court.

Pursuant to the previous direction dated 29th January, 2024 a copy of the report dated 13th March, 2024 prepared by OSD, Borough –IV, HMC is placed before this Court by the learned advocate representing the Corporation and the same is taken on record.

However, Mr. Sureka, learned advocate representing HMC has tendered undertaking to file the original copy of the report dated 13th March, 2024 by tomorrow, 2nd April, 2024. During course of hearing copy of the report dated 13th March, 2024 has been made over to the learned advocate representing the petitioners.

Based on such report dated 13th March, 2024 the learned advocate representing HMC has opposed the prayer of the petitioners since it has been submitted that if the same is allowed HMC is required to provide separate water connections to the tenants of the aforesaid premises which is statutorily not permissible. Based on the report dated 13th March, 2024 it is also contended that

HMC is under an obligation to provide water connection to every premises under Section 137 of the Howrah Municipal Corporation Act, 1980 and the same has already been done so far the premises in question is concerned.

Having considered the submissions made on behalf of the parties and on perusal of the copy of the report dated 13th March, 2024 it appears that already water connection has been provided to the aforesaid premises under the relevant provisions of the Howrah Municipal Corporation Act, 1980.

Question arises for consideration whether the concerned authority of HMC is required to provide separate water connections to the petitioners who are the tenants of the aforesaid premises as claimed by them. During course of hearing no provision has been brought to the notice of this Court which confers right upon the petitioners to get separate water connections apart from the water connection which has already been provided to the premises in question.

Though in support of the contentions made on behalf of the petitioners reliance has been placed on the order dated 31st October, 2017 passed by the civil Court in connection with Title

Suit No. 9 of 2012 but on perusal of the relevant part of the order it appears that civil Court has only granted leave to the plaintiffs to approach HMC for getting water connections. The leave which has been granted by the civil Court needs to be construed on the anvil of the relevant statutory provisions as contained in the Howrah Municipal Corporation Act, 1980 and this Court has not found any provisions which cast an obligation upon the concerned authority of the Corporation to provide separate water connections to the tenants of the particular premises in question.

In view of aforesaid scenario no relief as prayed for in this writ petition can be granted to the petitioners and accordingly the writ petition stands dismissed.

It is made clear that this Court has not decided *inter se* rights of the parties in the pending Title Suit being numbered 9 of 2012 and the civil Court is free to take decision without being influenced by the orders passed by this Court on this writ petition.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned

Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)