

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***FMA 1064 of 2024
(CAN 1 of 2024)***

***Haraprasad Gowri & Ors.
-Vs-
State of West Bengal & Ors.***

For the Appellants	:	Mr. Gopal Pahari, Adv., Ms. Mandeep Kaur, Adv.
For the Respondent Corporation	:	Mr. Sandipan Banerjee, Adv., Mr. Ankit Sureka, Adv.
For the State	:	Mr. Nabhajit Prasad Basu, Adv., Mr. Arindam Mitra, Adv.
For the Respondent No.8	:	Mr. Rafikul Islam Sardar, Adv.
Heard on	:	30.09.2024
Judgment on	:	30.09.2024

Joymalya Bagchi, J. :-

1. Appellant has assailed judgment and order dated 16.07.2024 whereby the Hon'ble Single Judge after perusing the report submitted by the Corporation noted the constructions at the

premises of appellant Nos.2 and 3 were without sanctioned plans and that at the premises of appellant No.1 is in deviation of the sanctioned plan.

2. Learned Advocate for the appellant submits constructions made at the premises of appellants pursuant to sanctioned plans and demolition orders have been assailed in separate proceedings. He also contends he had no opportunity to challenge the correctness of the report.
3. Alleging unauthorized construction at the premises of respondent No.8, appellants had approached this Court seeking demolition. Hon'ble Single Judge directed the Corporation to submit report. Enquiry report records unauthorized constructions not only at the premises of respondent No.8 but at the premises of the appellants also. Noting this fact, Hon'ble Single Judge remitted the matter before the Corporation to take necessary steps within a stipulated time frame.
4. As the Hon'ble Single Judge had not accepted the report and merely remanded the matter for consideration before the respondent Corporation, it is open to the appellant to raise objections with regard to the correctness of the report before the authority concerned. It is also open to the appellants to place before the respondent authority, orders of injunction, if any, passed in

litigations pending before this Court with regard to the said constructions.

5. It is clarified mere pendency of the writ proceeding with regard to the constructions shall not deter the respondent-Corporation to take necessary steps in the matter, after giving opportunity to the appellants and private respondent no.8 to file objections to the enquiry report and hearing them on the issue. Entire exercise shall be concluded within three months from the date of communication of this order.
6. With these directions, appeal and the connected application are disposed of.
7. There shall be no order as to costs.
8. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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