

02.01.2024
Item No.13

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23751 of 2023
Tuhin Manna

v.

The Howrah Municipal Corporation & Ors.

Mr. Pingal Bhattacharyya
Mr. Rajdeep Sinha
Mr. Soham Kumar
... for the petitioner.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das
... for the respondent no. 4.

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

The petitioner complains of illegal and unauthorized construction at holding no. 78/1/3/4, Thakur Ramkrishna Lane, Ward No. 42 under Borough VI of the Howrah Municipal Corporation.

The legal representation filed before the Commissioner of the Corporation is yet to be disposed of.

Learned advocate representing the private respondents denies the allegation of unauthorized construction. It has been submitted that the construction is being made strictly in accordance with the plan sanctioned.

The petitioner has also prayed for a direction upon the Corporation to cancel and/or withdraw the building

sanctioned plan /revised building plan issued by the Corporation for raising such structure.

Learned advocate representing the Corporation submits that the petitioner never filed any complaint before the Corporation or the building department. The legal representation on behalf of the petitioner was forwarded only to the Commissioner.

It has been pointed out that the building department of the Corporation has also not been made party in the present writ petition.

It appears that the engineer of the building department of the concerned borough is a necessary party for effective adjudication of the instant dispute. Accordingly, leave is granted to the advocate-on-record of the petitioner to implead the concerned engineer of the concerned borough as party respondent in the present writ petition.

The formality of serving a copy of the writ petition upon the added respondent stands dispensed with as the Corporation is already represented by the learned advocate.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 2 or his delegate to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months

from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event, the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized 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.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The learned advocate for the petitioner is directed to forward the copy of the representation dated July 24, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

sh

(Amrita Sinha, J.)