

27.09.2024

AKG

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Ct.No.15

WPA 24650 of 2024
Bajnath Prosad @ Sah
Vs.
State of West Bengal and Ors.

Mr. Avishek Banerjee,
Mr. Shahrukh Raja,
Mr. Saprativa Paul,
Mr. Vivek Shaw

..for the Petitioners

Mr. Ansar Mandal,
Ms. Somashree Dey

..for the State

Mr. Sandipan Banerjee,
Mr. Ankit Surekha

...for Howrah Municipal Corporation

The late mother of Respondent No. 6 filed W.P.A. 21439 of 2022, alleging unauthorized construction by the petitioner at Holding No. 12, Durga Das Kuthi Lane, Post Office and Police Station – Howrah, PIN 711101.

In the aforementioned writ petition, a Co-ordinate Bench of this Court passed an order on February 1, 2023, directing the Howrah Municipal Corporation to ascertain the nature and extent of the unauthorized construction through a fresh inspection and to take immediate measures to deal with the unauthorised construction in accordance with the law.

In compliance with the order dated February 1, 2023, the Howrah Municipal Corporation issued a demolition order on August 21, 2023.

The learned advocate representing the petitioner has challenged the demolition order dated August 21, 2023, arguing, inter alia, that the order fails to specify which portions of the construction are to be demolished. Consequently, the petitioner asserts that he is unable to comply with the order. He submits that the Municipality should issue a fresh demolition order that clearly identifies the specific deviated portions requiring demolition.

The Howrah Municipal Corporation has brought to the Court's attention an order dated September 12, 2024, passed in a contempt application (CPAN 199/2024) that seeks implementation of the order dated February 1, 2023. The Municipality contends that, during hearing of the contempt application, it was explicitly submitted that demolishing the deviated portions could compromise the structural integrity of the building. Despite this submission, the Bench further directed the Commissioner of Police, Howrah Police Commissionerate, to provide all necessary assistance for the demolition of the deviated portions.

Given the order dated September 12, 2024, this Court is of the opinion that any order issued in this

writ petition would constitute an interference with the order dated September 12, 2024.

However, in light of the fact that an advocate's chamber is currently operating from the premises in question, the Corporation is directed not to implement the demolition order dated August 21, 2023, until further orders are passed in CPAN 199 of 2024.

This order does not preclude the petitioner from bringing any relevant factors to the attention of the Bench hearing the contempt application.

WPA 24650 of 2024 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)