

Item No.16

03.01.2024

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 24514 of 2023
Ramesh Kumar Jaiswal

v.

The Howrah Municipal Corporation & Ors.

Mr. Nilanjan Bhattacharya
Mr. Shibasish Banerjee
Mr. Alash Ganguly
... for the petitioner.

Mr. Debjit Mukherjee
Mr. Susanta Chatterjee
Mr. Kaustav Bhattacharya
Mr. S. Chakraborty
Mr. P.Jana
... for the respondent no. 5.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
Ms. Shetparna Ray
... for HMC.

The petitioner complains of illegal and unauthorized construction at 4, Hut Lane, Ward No. 29 under the Howrah Municipal Corporation.

Allegation is that G+6 storied building has been constructed without obtaining any sanction. Complaint lodged against such unauthorized construction is pending consideration till date.

Learned advocate representing the private respondent submits, upon instruction that, in respect of the selfsame structure several writ petitions have been filed by diverse persons.

The private respondent produces copy of the order dated September 13, 2023 passed by this Bench in WPA 10764 of 2023 (Sri Suraj Kamkar v. The Howrah Municipal Corporation & Ors.). The opening sentence of the aforesaid order records the premises number. It appears that the premises involved in the writ petition filed by Sri Suraj Kamkar (supra) and the present petitioner is the same.

In the said order dated September 13, 2023 there is mention of another writ petition being WPA 26951 of 2022 wherein the Court was pleased to pass order on June 12, 2023 directing the Corporation to keep the impugned order of self-demolition in abeyance for the time being.

Learned advocate representing the private respondent submits that spot inspection has already been conducted. The hearing, however, is yet to be conducted by the Corporation.

It has been submitted by the learned advocate representing the private respondent that the hearing could not proceed as a complaint was lodged by a separate party alleging that opportunity of hearing should be given to him also.

It appears from the submission made on behalf of the parties that the illegal construction cannot be demolished or removed as some person or the other is filing litigation(s) due to which the Corporation cannot proceed to conclude the proceeding initiated to deal with the unauthorized construction.

The petitioner has averred in the affidavit of the writ petition that he is a businessman. Learned advocate representing the petitioner submits that his client is a

social reformer. The petitioner does not appear to be directly connected with the subject property.

The Howrah Municipal Corporation is directed to take steps in terms of the order dated September 13, 2023 passed in the matter of Sri Suraj Kamkar (supra).

It is made clear that there is no requirement of granting opportunity of hearing to the present petitioner as he is not at all directly connected with the subject property.

The proceeding in question shall be concluded strictly in accordance with the provisions of law.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today be taken on record.

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

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(Amrita Sinha, J.)