

153. 11.03.2024
bd. Ct.15

W.P.A. 27504 of 2017

Shibaji Roy & Anr.

-vs-

The Howrah Municipal Corporation & Ors.

Mr. Biswanath Chatterjee

Mr. Sobhan Pathak ... for the petitioners.

Mr. Sandipan Banerjee

Mr. Ankit Sureka ... for the HMC.

Mr. Sunny Nandy

Mr. Subhasis Chakraborty

Mr. Amit Chowdhury

Ms. Susmita Kumari Singh ... for respondent no. 5

Ms. Saheli Sen ... for respondent nos. 6 and 7

In the writ petition petitioner has prayed for demolition of the construction made by the private respondents at 216, Sree Ram Dhang Road, Howrah. It has been contented on behalf of the petitioners that there is requirement of issuance of mandamus directing the concerned respondent authorities to demolish the construction made without any sanctioned plan.

Today private respondents as well as Howrah Municipal Corporation are represented by learned advocates. One affidavit has been filed on behalf of Corporation affirmed on 5th February, 2024 and the same is taken on record.

The writ petition was heard on number of occasions. First, it was submitted on behalf of the Corporation on 25th September, 2023 that order of demolition has been passed in terms of Section

177(1) of the Howrah Municipal Corporation Act, 1980 requiring demolition of the construction in question and in consideration of such submission direction was given upon the Corporation to file an affidavit disclosing the steps taken by the Corporation. Subsequently on 8th January, 2024 a different stand was taken by the Corporation and it was informed that perhaps retention order has been issued in favour of the private respondents on payment of fees. The Court directed to disclose the order passed by the Corporation by filing affidavit. Today affidavit has been filed wherefrom it appears that on 19th July, 2014 decision was taken by the concerned authority of the Corporation to regularise the construction on receipt of retention fee. In the writ petition the order of retention passed in consideration of payment of fees is not under challenge rather petitioners have prayed for demolition of unauthorised constructions. In absence of challenge being thrown to retention order passed in the month of July 2014 the relief as prayed for on behalf of the petitioners cannot be granted.

Accordingly, the writ petition stands disposed of.

However, this order shall not preclude the petitioners to question the retention order passed in the month of July 2014 by taking steps in accordance with law.

There shall be no order as to costs.

Urgent photostat certified copy of the order,

if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)