

01.02.2024.
Court No. 13
Item No. 83
ap

W.P.A. No. 28703 of 2023

Rakesh Chowdhary
Versus
The Howrah Municipal Corporation & Ors.

Mr. Debjit Mukherjee,
Mr. Om Narayan Rai,
Ms. Susmita Chatterjee,
Mr. K. Bhattacharya.

...For the petitioner.

Mr. Ankit Sureka.

...For the H.M.C.

Mr. Ayan Banerjee,
Ms. Debashree Dhamali,
Ms. Riya Ghosh.

...For the Bally Municipality.

Mr. Gopal Pahari,
Ms. Piyali Kulavi.

...For the respondent nos.7 & 8.

1. Supplementary affidavit and affidavit-of-service filed in Court today are taken on record.
2. The petitioner is aggrieved that the private respondents are effecting construction on a property after expiry of the sanctioned plan.
3. Counsel for the private respondents submits that the validity of the plan had indeed expired. He further submits that an application has been filed for renewal of the sanction as also for further sanction of four floors. It is also submitted that ground plus four storied structures are part of the sanction in twelve separate blocks.

4. Counsel for the Bally Municipality submits that originally the property fell within the Howrah Municipal Corporation and now it falls under the jurisdiction of the Bally Municipality. Pursuant to the order passed in W.P.A. No. 20827 of 2022 dated 31st August, 2023, the private respondents' application for renewal of sanction and for sanction of additional floors is pending consideration.

5. Bally Municipality shall take steps in accordance with law in so far as the private respondents' application is concerned after giving due regard to the objections and representations of the petitioner, if any. Howrah Municipal Corporation shall transmit all the necessary documents and files in respect of the property to Bally Municipality for further action, if not already done.

6. Counsel for the petitioner also submits that renewal of sanction or additional sanction is not mentioned in the records of the RERA as required to be published under RERA Act, which is now implemented in the State of West Bengal.

7. It is submitted that approval of RERA has not been obtained for the entire construction. The private respondents and the Municipality shall take note of the same.

8. It is ordered that no construction shall be effected till such time the formal decision is taken by Bally Municipality.

9. Since respondents have not used any affidavit-in-opposition, the allegations in the writ petition shall be deemed to have been admitted by them.

10. With the aforesaid observations, the instant writ petition shall stand disposed of.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)