

22.04.2025
Sl. No.37
Ct.3/ tkm

W.P.A. 497 of 2025
[Rafique Ahmed & Ors. vs. Howrah Municipal Corpn. & Ors.]

Mr. Tanmoy Mukherjee
Mr. Subhasish Pachhal
Mr. S Santra

... .. for the petitioners

Mr. Anirban Ray, Id GP
Mr. Nilotpal Chatterjee
Mr. Debraj Sahu

... .. for the State

Mr Ankit Surekar

... .. for HMC

1. The petitioners in the present writ petition are challenging the demolition order dated 24.7.2000 issued by the Chief Architect of the Howrah Municipal Corporation qua premises no. 29, Roshan Golder Lane, Police Station and District Howrah wherein directions were issued for the demolition of unauthorized construction existing in the said premises.
2. The present case has a checkered history. The property in question originally belonged to one Sk. Md. Idris. After his death, the said property devolved upon his legal heirs namely three sons and one daughter i.e. petitioner nos. 1, 2 and husband of petitioner no. 3 and respondent no. 7. A partition suit being TS no. 3490 of 2014 is pending between the parties before the civil court.

3. In the year 1999 respondent no. 7 filed a writ petition being WP 20769 (W) of 1999 alleging unauthorized construction in the premises in question. This court vide order dated 20.1.2000, disposed of the said writ petition by directing the Chief Architect to consider and decide the pending representation filed by the respondent no. 7 after affording an opportunity of hearing to all the parties.
4. In pursuance of the said direction, the Chief Architect of the Howrah Municipal Corporation after hearing all the parties, passed the impugned demolition order dated 24.7.2000. By the said order the Chief Architect directed the petitioner no. 1 and 2 and husband of petitioner no. 3 to demolish the unauthorized construction within 15 days, failing which the building department of respondent municipality would carry out the demolition at the petitioners' risk and cost.
5. Since no demolition was carried out, respondent no. 7 filed a second writ petition being WP 17328(W) 2000. This court vide order dated 12.3.2001 disposed of the said writ petition granting liberty to the Howrah Municipal Corporation to take action in accordance with law.

6. However, no demolition action was taken and hence the respondent no. 7 preferred third writ petition being WP 4299(W) of 2002 seeking implementation of the earlier demolition order. This court vide order dated 8.5.2002 disposed of the said writ petition by directing the respondent to carry out the demolition within one month.
7. The respondent municipality carried out a partial demolition action and being dissatisfied with the said partial demolition the respondent no. 7 filed the fourth writ petition being WPA 16640 of 2003. This court vide order dated 4.7.2004 again directed the respondent municipality to carry out the demolition action within one month.
8. On 22.08.2004, when the matter was listed before this Court, the respondent Municipality submitted that further unauthorized construction had taken place, and therefore a fresh notice needed to be issued in respect of the said construction.
9. At the instance of the respondent Municipality, the police authorities directed the petitioners to vacate the premises to enable further demolition action. Aggrieved by this action, the petitioners have filed the present writ petition challenging the demolition order dated 24.07.2000,

10. This court has heard the arguments advanced by the parties and has perused the document on record.
11. The petitioners are claiming that the order passed by the Chief Architect is legally invalid, as he was not the authorized person to issue such an order.
12. The Chief Architect was directed, by an order passed by this Court in Writ Petition WP 20769(W) of 1999, to consider and decide the representation of the respondent no. 7. The Chief Architect complied with the said direction and passed the demolition order dated 24.07.2000. The Petitioner never challenged the said order and it attained finality. Since the Chief Architect was functioning under the specific direction of this Court, there is no merit in the submission made by the Petitioner and hence it is rejected.
13. The impugned demolition order was passed on 24.07.2000 nearly 25 years ago. Since then, this Court has, on multiple occasions, directed the respondent authorities to carry out the demolition. However, till date, the order has not been implemented, and the demolition remains incomplete.
14. They have always been aware of the order passed on 24.07.2000; however, the said order

was never challenged. Now, through the present writ petition, they are seeking to challenge the demolition order without offering any explanation for the inordinate delay of 25 years. Hence, the writ petition is liable to be dismissed on the grounds of delay and laches.

15. Learned counsel for the petitioners argues that the demolition order does not specify the extent of unauthorized construction. However, it is stated in the demolition order that the entire structure is illegal. This court is of the considered opinion that the unauthorized construction is sufficiently described in the impugned demolition order, hence, the contention of the petitioners is rejected.

16. This Court notes that the structure was constructed without any sanctioned plan and is entirely illegal and unauthorized. It is further observed that the unauthorized construction has been in existence for the past 25 years. Despite being aware of the demolition order issued by the respondent authority, the petitioners have continued with further unauthorized construction with impunity. Hence, the petitioners do not deserve any leniency.

17. In view thereof, this Court is of the considered view that the belated challenge to the demolition

order dated 24.07.2000 has been made solely with the intention to delay the demolition process. Hence this Court is not inclined to interfere with the same.

18. With the aforesaid observation, the present writ petition is dismissed.

19. However, there shall be no order as to costs.

(Gaurang Kanth, J.)