

Dd 13 12.02.2025

FMA/246/2025
With
IA NO: CAN/1/2025

AMIT KUMAR GHOSH
VS
HOWRAH MUNICIPAL CORPORATION AND ORS.

Mr. Sumitava Chakraborty, Advocate
... .. For the Appellant

Mr. Sandipan Banerjee,
Mr. Ankit Surekha, Advocates
... .. For the HMC

Ms. Shebatee Datta,
Ms. Poulami Roy, Advocates
... ...For the respondent no. 9

Ms. Bratati Pramanick, Advocate
... ...For the respondent no. 10

1. Appeal is at the behest of the writ petitioner and directed against an order dated January 13, 2025 passed in WPA 9718 of 2022.
2. By the impugned order, learned single Judge dismissed the writ petition.
3. Learned advocate appearing for the writ petitioner submits that, existence of a structure without a sanctioned building plan is established in view of the RTI submitted by Howrah Municipal Corporation before the learned single Judge.
4. In such circumstances, he submits that an order of demolition is necessary corollary.
5. Howrah Municipal Corporation is represented.
6. Learned advocate appearing for the private respondent no. 9 submits that, the writ petition is a

mechanism to oust and evict her client from the premises concerned. She contends that, the writ petitioner does not possess any right, title and interest in respect of the property concerned.

7. Title to the immovable property may or may not be in dispute. In an appeal in a writ petition, we are not deciding title to the immovable property concerned. We are to decide as to whether, there exists sufficient material to suggest existence of any unauthorized construction at the locale or not. In the event, we are *prima facie* satisfied that there exists sufficient ground to require the municipal corporation to look into the issue of allegation of unauthorized construction, we should direct the municipal corporation to do so.
8. In the facts of the present case, apparently, the structure standing at the locale is without any sanctioned building plan.
9. In such circumstances, it would be appropriate to direct Howrah Municipal Corporation to invoke provisions of Section 177 of Howrah Municipal Corporation Act, 1980 and decide the issue of unauthorized construction as alleged by the writ petitioner. No doubt, Howrah Municipal Corporation will afford a reasonable opportunity of hearing to the private parties. Howrah Municipal Corporation will dispose of the proceeding under Section 177 of the Act of 1980 preferably within three months from date. We clarify that we did not enter into the issue of unauthorized construction and the points raised by the respective parties.
10. In such circumstances, we set aside the order of the learned single Judge dated January 13, 2025.

11.FMA/246/2025 along with connected applications
are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)