

Item No.185-ML

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.05.2024
Ct-24

WPA 3957 of 2024
Smt. Sadhana Devi

v.

The Howrah Municipal Corporation & Ors.

Ms. Shebatee Datta
Ms. Poulami Roy
... For the petitioner.

Ms. Sipra Mazumdar
Ms. Somashree Dey
... for the State.

Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
... for HMC.

Mr. Tarique Quasimuddin
Ms. Jainab Tahur
... for the respondent nos. 6 & 7.

The petitioner complains of illegal and unauthorized construction at 60, M.C. Ghosh Lane under the jurisdiction of the Howrah Municipal Corporation. Objection filed against such unauthorized construction is allegedly pending consideration.

Learned advocate representing the private respondents submits that sanction was granted for construction of G+3 storied building. However, additional floors have been constructed.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 2 being the Municipal Commissioner, Howrah Municipal Corporation or his delegate to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated January 18, 2024 to the aforesaid respondent at the time of communicating the order of the Court.

The private respondents are restrained from transferring /selling /creating third party rights in respect of the portions constructed beyond the sanctioned plan till the matter is finally decided by the Corporation.

The Officer-in-Charge, Howrah Police Station is directed to keep strict vigil over the subject property to ensure that further construction in any manner whatsoever is not carried out at the subject property till the matter is finally decided by the Corporation.

The writ petition stands disposed of.

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.)