

Sl. No.07
11.03.2025
Suman
Ct. 15

WPA 5342 of 2025

Dipen Kar and Ors.
Vs.
The Howrah Municipal Corporation and Ors.

Mr. Tanmoy Mukherjee
Ms. Antara Panja
..for the petitioners

Mr. Animesh Paul
Ms. Susmita Ghorai
Ms. Aindrila Chatterjee
..for the private respondent

Mr. Sandipan Banerjee
Mr. Ankit Sureka
..for Howrah Municipal Corporation

The petitioners challenge a demolition order dated March 3, 2025, issued by the Howrah Municipal Corporation concerning the property located at L.R. Dag No. 123(P), L.R. Khatian Nos. 4925, 4926, and 4927 at Mouza Jagacha, corresponding to 30 Sundarpara Road, 1st Bye Lane, Howrah-711112.

It appears that the demolition order followed a hearing held on January 11, 2024, in which the petitioners were allowed to participate. However, the petitioners contend that due to the conspicuous absence of any particular regarding the extent of the

unauthorised construction in the demolition order, they are unable to comply with the order.

Further, it has been submitted that the demolition order was issued without considering the fact that a sanctioned plan had been issued by the Howrah Municipal Corporation. Additionally, the petitioners assert that they were not provided with a copy of the inspection report upon which the demolition order was based.

In support of their argument, the petitioners refer to the judgment reported at **(2006) 4 CHN 136 (Laddu Gopal Bajoria vs. Kolkata Municipal Corporation)**.

The learned advocate for the Corporation submits that the failure to specify the unauthorized construction in the demolition order does not constitute grounds for invalidating it. The Corporation relies upon a judgment dated July 18, 2012, passed by a Division Bench of this Court in AST 36 of 2012 (*Ranjit Pal and Anr. vs. Howrah Municipal Corporation*).

The learned advocate for Respondent No. 4 contends that the petitioners have encroached upon a portion of his land during the construction process.

I am of the view that the impugned order should have clearly specified the extent of the unauthorised construction that the petitioners were asked to demolish.

The learned advocate for the petitioners rightly argues that the observation of the Division Bench in AST 36 of 2012 was made in the context of a case where the individual responsible for the unauthorised construction had submitted an "as-made" plan for the regularisation of the unauthorised construction. In that case, the extent of the unauthorized construction was known to the parties involved. However, the same cannot be said here. The petitioners specifically allege that the Corporation failed to consider the sanctioned plan issued by the Corporation in passing the demolition order.

As a result, I set aside the demolition notice dated March 3, 2025.

The Corporation is directed to issue a fresh notice of inspection to the petitioners and respondent no.4. A joint inspection shall be conducted in their presence to determine the extent of the unauthorised construction, if any, at the said premises. A copy of the inspection report shall be provided to both the petitioners and respondent no.

4. Subsequently, the petitioners and respondent no.4 shall be given an opportunity for a hearing.

It will be open for the petitioners to apply for the regularisation of the unauthorised construction if detected during the hearing. The Corporation shall consider the petitioners' prayer in accordance with the law.

The Corporation shall also consider the petitioners' prayer for the renewal of the sanctioned plan, if it has expired, in accordance with the relevant legal provisions.

This exercise shall be completed within two months from the date of communication of this order.

Accordingly, **WPA 5342 of 2025** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)