

04.07.2025
Sl. No.19
Ct.3/ tkm

W.P.A. 14577 of 2025

Md. Zakir Hussain & Anr.
vs.
Howrah Municipal Corpn. Ors.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K R Ahmed
Mr. Rudranil Das

... .. for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Sureka

... .. for HMC

1. Affidavit of service is taken on record.
2. The petitioners, by way of the present writ petition, are aggrieved by the self-demolition order dated 08.05.2025 issued by the respondent municipality, whereby the petitioners were directed to demolish the entire G+4 storied building situated at premises no. 53A, Kazi Para Lane, Ward No. 40, Howrah.
3. The case of the petitioners is that pursuant to a registered Development Agreement dated 07.12.2017 entered into with the owner of the aforesaid premises, the petitioners undertook the development of the said property. In furtherance thereof, the petitioners obtained a sanctioned building plan bearing no. BR-HMC-04/35/2018 dated 06.04.2018 from the competent municipal authority and accordingly commenced

construction of a G+4 storied building strictly in accordance with the said sanctioned plan.

4. On 28.03.2025, the petitioners received a "stop work" notice from the respondent municipality, wherein a hearing was scheduled for 05.04.2025 at 12:30 PM. However, subsequent to the issuance of the stop work notice, the respondent authority issued a demolition notice dated 08.05.2025 on the ground of unauthorized construction, without affording the petitioners a proper opportunity of hearing. Learned counsel for the respondent has submitted that the petitioners failed to appear at the said hearing.
5. This Court has heard the submissions advanced by the learned counsel for the respective parties and has perused the materials on record. A plain reading of the impugned demolition order dated 08.05.2025 reveals that the respondent municipality has acknowledged the existence of a valid sanctioned plan permitting the construction of a G+4 storied building. However, the impugned order simultaneously alleges unauthorized construction in the form of an "additional floor" in a G+4 structure, which is inherently contradictory and lacks factual clarity. Moreover, the impugned order does not identify or specify the nature, location, or extent of any

deviation from the sanctioned plan. Despite this, the respondent municipality has directed demolition of the *entire* G+4 structure. Such a sweeping and unsubstantiated direction, issued without a reasoned finding, proper factual basis, or even an inspection, renders the self-demolition order dated 08.05.2025 cryptic, arbitrary, and legally unsustainable. The order is also in clear violation of the principles of natural justice, as the petitioners were not provided with a meaningful opportunity to respond to the allegations of unauthorized construction, nor was any inspection carried out in their presence.

6. In view of the above, the self-demolition order dated 08.05.2025 is hereby quashed and set aside.
7. The respondent municipality is directed to conduct a joint inspection of the subject premises within a period of three weeks from the date of communication of this order, in the presence of the petitioners or their authorized representative.
8. The inspection report shall clearly indicate whether there are any deviations from the sanctioned building plan. If any deviation is found, the report shall specifically state the nature, location, and extent of such deviation.

9. If, upon inspection, unauthorized construction is detected, the respondent municipality shall be at liberty to initiate appropriate proceedings strictly in accordance with law, after giving the petitioners due opportunity of hearing and ensuring compliance with the principles of natural justice.
10. With the above direction, the present writ petition is allowed.
11. Since no affidavit is called for, allegations made in the writ petition are deemed to have been denied.

(Gaurang Kanth, J.)