

17.07.2025
Court No.13
Item No.8
pk

MAT 996 of 2025
With
CAN 1 of 2025

Bijay Kumar Shaw and Ors.
Vs.
Howrah Municipal Corporation and Ors.

Mr. Kalyan Bandyopadhyay, Sr. Adv.
Mr. Arka Kumar Nag,
Mr. Rahul Kumar Singh,
Mr. Snehasish Dey

... for the appellants.

Mr. Sandipan Banerjee
Mr. Ankit Sureka

.... For the Howrah Municipal Corporation.

Mr. Mukul Lahiri, Sr. Adv.
Mr. Prasenjit Burman,
Ms. Payel Kelay,
Mr. S. Mallik

... for the respondent no. 8.

Mr. Ratikanta Pal

... for the Developer.

1. Affidavit of service filed in Court is taken on record.
2. The ugly head of illegal nexus between the builders/owners and some officials of the Corporations, in the instant case the HMC, is raised in these proceedings.
3. There is admittedly, unauthorized construction of a buildings which are standing at premises No. 35/9, 30/9 and 9 Hamiduddin Munshi Lane, Howrah.
4. There is admittedly an order passed by a Single Bench in a writ petition before this court ordering demolition of the said buildings since it is an unauthorized construction. No sanctioned plan has been obtained from the Howrah Municipal Corporation in this

regard. Learned counsel for the Howrah Municipal Corporation confirms the same in Court today.

5. Against the order directing immediate demolition of the unauthorized construction, an appeal being MAT 204 of 2023 was filed by one Dharmendra Shaw, the developer who constructed the said building. The land in respect of one premises owner is stated to be Om Prakash Jaiswal. The other two plots of land are owned by persons who claimed to have entered into a development agreements with Dharmendra Shaw.

6. The Division Bench considering the plight of Mr. Bandypodhyay's client before this Court by orders dated 17.02.2023, 03.03.2023 and 11.04.2023 deferred the demolition to ascertain the structural stability of the three buildings in question. Some photographs annexed to the stay application reveal a sordid and dangerous picture where portions of the roof have already caved in. The appellants are poor and illiterate persons who have moved into the three said premises and are paying rent to one Biswanath Jaiswal, the brother of Om Prakash Jaiswal.

7. Mr. Mukul Lahiri, learned Advocate for the respondent no.8 submits that his client has no terms with the said Biswanath Jaiswal.

8. After giving several opportunities to the Howrah Municipal Corporation to locate a person who will be able to assess the structural stability of the buildings, it was found by the Coordinate Bench that the Corporation was leading this Court into the garden path. Finding no

alternative and no way to ascertain the structural stability of the building and given the fact that the three constructions are illegal and unauthorized, demolition has been ordered by the Coordinate Bench finally on 11.04.2023 in MAT 204 of 2023.

9. Mr. Lahiri indicates the Court that two other tenants from time to time have filed writ petition, prevent the demolition of the unauthorized constructions. The said writ petitions have been dismissed by two Single Benches of this court.

10. This Court notes that client of Mr. Bandyopadhyay is facing a grave choice today, i.e. between devil and deep sea. If they continue to live in the said buildings, there may be a threat to their lives and if they have to leave, they have no place to go.

11. In the backdrop of the above and given the fact that the demolition of the unauthorized constructions have been ordered way back in April, 2023, and no demolition has taken place till now, this Court directs as follows :-

- a) Dharmendra Shaw, the developer shall relocate the appellants/tenants in three premises to a separate place at the first instance which is safe and sound and pay compensation.
- b) The actual liability for recovering or sharing compensation may be appropriately decided by and between Mr. Dharmendra Shaw, the developer and Om Prakash Jaiswal and

Biswanath Jaiswal either mutually or by civil proceedings.

- c) The quantum of compensation to the appellants shall be decided by the Commissioner, Howrah Municipal Corporation and/or his delegate.
- d) The Chairman, Howrah Municipal Corporation shall ensure that the aforesaid three persons have relocated the appellants to a safe, secure and lawful place within a month from date.
- e) Howrah Municipal Corporation shall lodge a complaint with the Howrah Police Station against Dharmendra Shaw, Om Prakash Jaiswal and Biswanath Jaiswal inter alia for unauthorized construction of the said three buildings, for endangering the life of the appellants and for collecting compensation in respect of illegal, unauthorized and dangerous buildings.
- f) Upon receipt of the complaint, FIR shall be registered against three persons and a responsible senior officer/officers shall be nominated by Commissioner of Police, Howrah Police Commissionerate to conduct the investigation.

12. It is expected that the aforesaid directions are carried out within a period of four months from date by the parties. In default, further and other penalties may be imposed upon them.

13. Relocation of the appellants shall be done by the aforesaid three persons immediately within a period of one month from date.

14. With the aforesaid observations, the MAT 996 of 2025 is disposed of. Consequently, all connected pending application is also disposed of.

15. There will be no order as to costs.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)