

Sl. No.05
04.03.2025
Suman
Ct. 15

WPA 17347 of 2024
With
CAN 1 of 2024

Sudip Bhattacharya
Vs.
Howrah Municipal Corporation and Ors.

Mr. Sumitava Chakraborty
Ms. Bratati Pramanick
..for the petitioner

Mr. Sabyasachi Chatterjee
Ms. Sharmistha China
Mr. A. Ghosh
..for respondent no.9.

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

Mr. Biswaroop Bhattacharya
Ms. Neelanjana Ghorui
..for the applicant in CAN 1 of 2024.

Ms. Munmun Ganguly
Mr. Debangshu Dinda
..for the State

The Howrah Municipal Corporation, by an order dated May 5, 2022, issued a demolition order regarding an alleged unauthorized construction at 25 and 25/2 Rammohan Mukherjee Lane, Ward No. 32, Howrah-711 102.

The petitioner challenged the demolition order by filing WPA 6552 of 2023 (Sudip Bhattacharya v.

Howrah Municipal Corporation). In the aforementioned writ petition, an interim order was passed on March 17, 2023, with the following observations:

“The petitioner submits that he is not aware of the portions constructed in deviation of the sanctioned plan. There is nothing on record to show that the petitioner approached the Corporation seeking details of the deviations which he ought to have demolished in accordance with the self-demolition notice. The petitioner simply sat tight over the matter. At the same time the petitioner continued with the construction work till the demolition squad was arranged for implementing the order of demolition. The stand of the petitioner cannot be appreciated by the Court.

For ends of justice, one opportunity may be given to the petitioner for defending the deviations which the petitioner claims to have been made in accordance with the sanctioned plan.

Accordingly, the Howrah Municipal Corporation is directed to conduct a spot inspection upon notice to the petitioner to ascertain the portions constructed in deviation of the sanctioned plan. A copy of the spot inspection report stating the deviations be served upon the petitioner. The petitioner shall be obliged to demolish the portions constructed in deviation of the sanctioned plan.

Let the spot inspection be conducted by April 6, 2023.

List this matter on April 18, 2023 marked “For orders.”

The writ petition was ultimately disposed of on September 29, 2023, with the following directions:

“If it ultimately transpires that unauthorised construction exists, then necessary steps shall be taken by the Corporation to deal with the same in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The order impugned passed by the Howrah Municipal Corporation dated 5th May, 2022 shall not be given effect to till a fresh order is passed by the Corporation in this matter.”

The petitioner, by filing this writ petition, alleges that the order passed in WPA 6552 of 2023 has not been complied with by the Corporation. Specifically,

the Corporation did not provide the petitioner with any notice for the spot inspection, and the petitioner remains unaware of the inspection report. However, the Corporation appears to be proceeding with the demolition of the alleged unauthorised construction hastily.

Various orders have been passed in this writ petition over time. On December 3, 2024, this Court directed the Corporation to file a report indicating whether the alleged unauthorized construction violated any building rules, in addition to the fact that it was constructed without a sanctioned plan.

The Corporation filed a report, which indicates violations of building rules by the petitioner in raising the construction, including the height of the building. However, the Corporation has not provided any document to suggest that the inspection was conducted after due notice was given to the petitioner.

In light of this, the writ petition is disposed of with the following directions:

The Corporation shall conduct a fresh inspection, providing due notice to the petitioner.

After the inspection, the Corporation shall prepare an inspection report, a copy of which shall be served upon the petitioner.

The Corporation shall convene a hearing with the petitioner after which a decision shall be made on whether to demolish the unauthorized construction or to regularize it in accordance with the law.

The demolition order dated May 5, 2022, is therefore set aside.

Consequently, **WPA 17347 of 2024** along with **CAN 1 of 2024** 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.)