

Sl. No.06
06.02.2025
Suman
Ct. 15

WPA 21548 of 2024
With
CAN 1 of 2025

Smt. Lakshmi Hazra and Anr.
Vs.
The Howrah Municipal Corporation and Ors.

Mr. Saptansu Basu, Sr. Adv.
Mr. Mihir Kundu
..for the petitioners

Mr. Pratip Chatterjee, Sr. Adv.
..for Respondent no.17.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
..for HMC

Mr. M. P. Gupta
Ms. S. Ray
Mr. Aditya Sinha
..for respondent nos. 7 and 18.

Mr. S. Singh
..for respondent nos. 8, 12, 14, 15 and 16.

Mr. Ayan Mitra
Ms. Antara Panja
..for respondent nos. 6, 9, 11 and 13.

In Re: **CAN 1 of 2025**

Previously, the writ petitioner filed WPA 7031 of 2024, which was permitted to be withdrawn with liberty to file afresh on July 4, 2024.

Mr. Gupta, the learned advocate appearing on behalf of respondents Nos. 7 and 18, questions the maintainability of the present writ petition. He argues that, on the earlier occasion, this Court allowed the petitioner to withdraw the writ petition since respondent no. 10 was dead at the time of filing of the writ petition. In order to rectify such a formal defect, the Court permitted the petitioner to withdraw the petition. Mr. Gupta further submits that, as the present writ petition has once again impleaded the deceased individual as respondent no. 10, the writ petition is not maintainable.

In support of his argument, Mr. Gupta has relied upon a judgment of the Madhya Pradesh High Court ***Laxminarayan v. Jankibai* (2023 SCC OnLine MP 3646)**.

It is evident that the petitioners have committed the same error by once again impleading a deceased person as respondent no.10 in this writ petition. However, the petitioners this time, seek to rectify this mistake by filing an application to strike out the name of the deceased individual, respondent no.10.

If a suit is instituted against a deceased person, it constitutes a formal defect, and the Court may allow the party to file a fresh suit after removing the defect. In fact, the judgment cited by Mr. Gupta supports this proposition.

In the present case though the writ petitioners have repeated the same mistake by once again impleading a deceased individual as respondent no.10. By filing this application, the petitioners are seeking to rectify this defect.

For the ends of justice, I am of the view that such a prayer should be allowed. Therefore, **CAN 1 of 2025** is allowed.

In Re: WPA 21548 of 2024

The petitioners allege unauthorised construction at the behest of the respondents at premises no.2 and 1/1, Kaibarta Para Lane, Salkia, Howrah. It is not disputed before this Court that the respondents obtained a sanctioned plan for the construction of a G+3 storied building. However, a G+6 storied building has been constructed instead.

Howrah Municipal Corporation submits that it has already taken steps to demolish the unauthorised construction.

In light of the steps taken by the Howrah Municipal Corporation, there is no need to keep this writ petition pending.

Accordingly, the writ petition is disposed of with a direction to the Howrah Municipal Corporation to conclude the demolition proceedings concerning the

unauthorised construction at the said premises as expeditiously as possible, in accordance with the law.

Accordingly, **WPA 21548 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.)