

(2018) 05 CAL CK 0208
In the Calcutta High Court
Case No : Writ Petition8173 (W) of 2015

Puranmal Agarwal & Ors.

APPELLANT

Vs

Howrah Municipal Corporation & Ors.

RESPONDENT

Date of Decision : 16-05-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0208

Hon'ble Judges : PROTIK PRAKASH BANERJEE, J

Bench : Single Bench

Advocate : Saptansu Basu, Debasree Dhamali, Soumo Chaudhury

Final Decision : Disposed Of

Judgement

The writ petitioners are aggrieved by non-consideration of their grievance by the respondent nos.1 and 2. The grievance of the petitioners is that

construction is sought to be made on a plot of land adjacent to the properties of which the writ petitioners are in physical possession and enjoyment as

trustees. Mr. Basu, learned Senior advocate appearing for the writ petitioners, submits that a building permit was obtained by the private respondent

no.4 by suppressing of material facts relating to the nature of the land on which construction is being made.

He further submits that in law there may be a case that the land is of a nature on which no construction can be made without taking permission from a

particular statutory authority, which has not been taken in the instant case by respondent no.4. I do not intend to go into the merits of this case nor

pass any order which will decide the matter one way or the other. Accordingly, I dispose of the writ petition without calling for affidavits and without

even asking the private respondent no.4 to answer the matter in view of the

order I propose to pass.

It cannot be contended that anyone has a vested right to have a consideration on a delayed application. Since the private respondent no.4 cannot have

a right to delay the process of hearing of the application made by Mr. Basu's client, which is in the nature of a representation appearing at page

48 of the writ petition, it is clear that the representation is to be considered and disposed of in accordance with law which cannot prejudice any right

nor take away any right which has vested or approved to the respondents.

Thus I dispose of the writ petition by directing that the respondent no.2 shall consider and dispose of the representation, which is at page 48 of the writ

petition, after giving the writ petitioners as also the private respondent no.4 and/or other authorised representatives adequate opportunity of being

heard; at such hearing pursuant to due notice the petitioners shall be at liberty to produce all relevant documents and the respondent no.4 as would

either confirm or rebut the contention of the writ petitioner about the nature of the land on which construction is going on.

In the event, the entire process shall be concluded within a period of one month from the date of communication of the order and no unnecessary

adjournment shall be granted to either of the parties. It is needless to say that the order shall be a reasoned order in accordance with law and the same

shall be communicated to all the parties within ten days from the date of taking of such decision. By way of abundant caution, leave is granted under

Rule 26 of the Rules relating to applications under Article 226 of the Constitution of India in terms of prayer 'a' of the writ petition.

This is granted because at the time when the writ petition was filed, there was urgency that a person would be constructing on lands by abuse of

process but in the meanwhile, it is submitted that service has been effect on the respondent no.4. Affidavit of service filed in Court today be kept with

the record. Since this petition is being disposed of without calling for affidavits, allegations made in the writ petition are deemed not to have

been admitted. Parties are directed to act on the basis of the website copy of this order.