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19.03.2021.
d.p.

**W.P.A. 521 of 2021
(Via Video Conference)**

**Rustom Ali & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Dyutiman Banerjee,
Mr. Chiranjib Sinha.
...For the Petitioners.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the private respondents in spite of service.

The petitioners allege illegal and unauthorized construction by the private respondents by encroaching the public road.

It has been submitted that several other residents of the area had filed petition objecting to such encroachment over the public road. The Deputy Secretary, Government of West Bengal, Urban Development and Municipal Affairs Department by a communication dated 1st October, 2020 addressed to the District Magistrate, Murshidabad requested to take necessary action in terms of the petition filed by the aforesaid residents of the area and to send an Action Taken Report to the department at the earliest.

The petitioners submit that the Action Taken Report by the District Magistrate has not been submitted till date.

As it appears that the complaint filed by the residents of the area is pending consideration before the District Magistrate, Murshidabad and the petitioners also pray for similar relief, accordingly, the representation of the petitioners shall be considered by the respondent No. 5 being the Board of Administrators, Murshidabad Municipality, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, at the earliest, but positively within a period of twelve weeks from the date communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the parties, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid

respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the writ petition along with all annexures to the respondent No.5 at the time of communicating the order of the Court.

WPA 521 of 2021 stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)