

10.03.2021
SL No. 16
Court No.24
(P.M.)

WPA 1184 of 2021
Narayan Chandra Datta @ Narayan Datta.
Vs.
The State of West Bengal & Ors.

Mr. Surya Prasad Chattoadhyay,
Mr. Arjun Samanta
... for the petitioner

Ms. Moushumi Bhowal
... for the Municipality

Mr. Washef Ali Mondal
..... for the respondent No. 7 and 8

Ms Sipra Majumdar
Ms. Prativa Ghatak
.... For the State.

The petitioner alleges that the private respondents are making construction in deviation of the plan sanctioned in their favour by the Dumdum Municipality.

The specific allegation of the petitioner is that the construction is being made in Plot - A being part of C.S. Dag no. 2782, Mouza – Sultanpur, J.L. No. 10, Touzi No. 172 by not leaving the requisite side spaces.

The petitioner made a representation before the Dumdum Municipality by letter dated 10th July, 2017 followed by reminder dated 10th November, 2020. The petitioner further alleges that in view of such unauthorised construction, without leaving the requisite side spaces, the floor area ratio of the construction that is being made by the private respondents is being increased. The drainage system has been completely blocked by the private respondents.

The learned advocate appearing on behalf of the private respondents submits, upon instruction, that the construction is being made strictly in accordance with the plan sanctioned by the Dumdum Municipality.

The allegation of not leaving the requisite side spaces has also been denied by the private respondents.

The learned advocate appearing on behalf of the Municipality submits that *prima facie* it appears that construction is being made in accordance with the plan sanctioned by the Municipality.

Be that as it may, as it appears that representation filed by the petitioner alleging such illegal and unauthorised construction is kept pending at the end of the respondent authority, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 3 to consider and dispose of the representation made by the petitioner, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of six months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, 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 petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 10th July, 2017 followed by reminder dated 10th November, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 1184 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)