

Item No. 10

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

10.04.2021
Ct-24

W.P.A. 3608 of 2019
Manasi Roy
v
The State of West Bengal & Ors.

Mr. Uttiya Roy
... for the petitioner.

Mr. Subhasis Bandopadhyay
... for the Municipality.

Mr. Ziaul Islam
... for the State.

The petitioner alleges that an unauthorized construction has come up in the landed property being Dag No. 800 R.S. Khatian No. 613, Mouza- Balidanga, J.L. No. 35. The illegal construction is carried on in the north side of the premises of the petitioner.

The petitioner claims to have made a representation before the Chairman of the Burdwan Municipality on June 12, 2017 and submits that in response to the complaint filed, a stop work notice was issued by the Chairman of the Municipality.

It has been submitted that despite the stop work notice issued by the Municipality, the private respondent is merrily going on making the unauthorized

construction. The same is evident from the reply given by the State Public Information, Burdwan Municipality on December 7, 2017 wherein it has specifically been mentioned that as per the field report, construction work has not stopped and no documents have been submitted regarding the construction.

The learned advocate representing the private respondent submits that she is not making any construction over the RS plot No. 800.

It is the further submission that the private respondent is the owner of the Plot No. 794.

The private respondent relies upon a sanction plan dated March 10, 1987 wherein RS plot No. 794 has been mentioned.

The learned advocate appearing on behalf of the private respondent further submits that a Title Suit being CS No. 171 of 2017 is pending between the parties before the learned Civil Judge (Junior Division), 2nd Court, Burdwan on the self-same issue. The aforesaid contention of the private respondent that the Suit is regarding the self-same issue has been denied by the learned advocate appearing for the petitioner.

Be that as it may, as it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful

purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 2, Burdwan Municipality 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 twelve weeks 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 unauthorized 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 June 12, 2017 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 3608 of 2019 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(**Amrita Sinha, J.**)