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28.06.2021.
d.p.

**W.P.A 11332 of 2019
(Via Video Conference)**

**Sheo Shankar Singh
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Partha Sarathi Barman,
Mr. Nazar Chowdhury.
...For the Petitioner.**

**Mr. Achintya Kumar Banerjee,
Mr. Raju Bhattacharya.
...For the KMC.**

**Mr. Probal Mukherjee,
Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharya.
...For the Respondent No.7.**

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

The petitioner alleges illegal and unauthorized construction of a tile shed at the entrance point of his house by M/s. Greenwood Housing Co-operative Society Limited, the respondent No.7 herein.

According to the petitioner the tile shed has been constructed illegally in such a manner that the ingress and egress to his plot of land has been obstructed.

The petitioner made a representation for removal of the illegal and unauthorized construction by a letter addressed to the Municipal Commissioner, Kolkata Municipal Corporation on 30th May, 2019.

The petitioner alleges that no steps have been taken by the Corporation for removal of the unauthorized construction.

The private respondent denies the allegation of the petitioner. It has been submitted that the portion of the land where the construction is alleged to have been made unauthorizedly, belongs to the private respondent. The petitioner is trying to get access to the said land by filing the instant writ petition.

It has further been contended that a Civil Suit in respect of the selfsame land is pending consideration before the Learned Trial Court.

The learned advocate appearing for the Kolkata Municipal Corporation submits that on inspection a tile shed has been found to be present. Notice was issued to the petitioner as well as the private respondent to disclose the details of the said construction.

The petitioner did not respond to the notice issued by the Corporation. The private respondent answered the notice and claimed that the land was theirs and the construction is present for more than 25 years. The private respondent claims that the construction is being used as a temple.

It appears from the submissions made on behalf of the parties that a construction admittedly is present at the site in question. What is to be seen is whether the construction was made in accordance with law or not.

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. 3 being the Municipal Commissioner or any competent person authorised by him to consider and dispose of the representation made by the petitioner strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

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.

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 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.

The petitioner is directed to forward a copy of the representation dated 30th May, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 11332 of 2019 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.)