

Court No. 24

09.04.2021

(Item No. 11)

(AB)

W.P.A 10061 of 2020

Prabir Kumar Mukherjee

Vs

The State of West Bengal & Ors.

Mr. Sayan Chattopadhyay

Mr. Subhendu Datta

Ms. Payal Shome for the petitioners

Mr. Dyutimoy Paul

..... for respondent Nos. 8, 9 & 10

Mr. Suddhadev Adak

..... for the Municipality

Affidavit of service filed in Court is taken on record.

The petitioner complains of illegal and unauthorized construction on the plot No. 2221, Mouza- Paschim Krishnapur, J.L. No. 37, Khatian No. 877/2, District – Hooghly, Police Station – Arambagh.

It is the specific contention of the petitioner that construction has been made over the said plot of land without obtaining any sanction plan and without leaving the mandatory side open spaces.

On receipt of a complaint from the petitioner the Executive Officer of the Arambagh Municipality by a letter dated 30th September, 2020 directed the private respondents not to operate the shop room existing in the disputed constructed site.

The petitioner submits that thereafter further representations were made before the Arambagh Municipality for removal of the unauthorized construction but none of them has been taken into consideration till date.

The learned advocate appearing on behalf of the private respondents denies the contention of the petitioner. It has been submitted that construction has been made strictly in accordance with the plan sanctioned by the Municipality.

The learned advocate appearing on behalf of the Municipality does not have any instructions in the matter.

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 Arambagh Municipality being the respondent No. 2 and the Executive Officer, Arambagh Municipality being the respondent No. 5 to inspect the premises in question and consider and dispose of the representation made by the petitioner and take a decision, 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 respondents shall pass a reasoned order and communicate the same to all the necessary

parties including the petitioner immediately thereafter.

In the event the aforesaid respondents are 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 respondents 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 respondents at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 21st November, 2020 to the aforesaid respondents at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)