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11.07.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 899 of 2022

**Rajeev Kumar Gupta
-versus
The State of West Bengal & Ors.**

**Mr. Maidul Islam Kayal.
...For the Petitioner.**

**Ms. Pampa Dey (Dhabal).
...For the Respondent
Nos. 9 and 10.**

**Mr. Sudipto Panda,
Ms. Mun Mun Tewary.
...For the State.**

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

None appears on behalf of the Maheshtala Municipality in spite of service.

Leave is granted to the learned advocate-on-record of the petitioner to implead the Chairman of the Maheshtala Municipality as party respondent in the present writ petition.

Formal service of a copy of the writ petition upon the Chairman of the Maheshtala Municipality stands dispensed with as the copy of the writ petition was already served upon the Maheshtala Municipality.

Learned advocate for the respondent Nos. 8 and 9 submits that she has filed Vakalatnama in the department vide filing No. A-1514 dated 29th April, 2022. The department is directed to tag the same with the records.

The petitioner alleges illegal and unauthorized construction by the private respondents at Mouza-Maheshtala, J.L. No. 5, Khatian No. 454, L.R. Khatian No. 3323, Dag No.-854 (L.R.), Ward no. 22 under the jurisdiction of Maheshtala Municipality.

On receipt of the representation filed by the petitioner, a hearing was called by the Sub-Engineer, Building Section, Maheshtala Municipality on 26th November, 2020.

The petitioner has not been intimated the fate of the hearing held on the said date.

Learned advocate appearing for the respondent Nos. 9 and 10 denies the allegation made by the petitioner.

It has been submitted that the private respondents were duly present at the hearing on 26th November, 2020 and submitted their reply. The fate of the hearing has not been made known to the respondents either.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 Chairman, Maheshtala 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 within a period of three 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 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 8th October, 2020 and the

subsequent representation dated 29th July, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)