

ML 89
05.07.2022
d.p.

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

W.P.A. 2854 of 2021

**Ezaz Ahmed & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Bhagbat Chaudhury,
Mr. Monojit Chatterjee.
...For the Petitioners.**

**Mr. Rajarshi Basu,
Mr. K.M. Hossain.
...For the State.**

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

None appears to oppose the writ petition on behalf of the Howrah Municipal Corporation or the private respondents in spite of service.

The petitioners complain of illegal and unauthorized construction by the private respondents in the holding No. 252/1, Belilious Road, Ward No. 19, Borough-III under the jurisdiction of the Howrah Municipal Corporation.

In response to an application made under the Right to Information Act, 2005, the Howrah Municipal Corporation intimated that no plan has been sanctioned either from the concerned office of the

Borough-III, Howrah Municipal Corporation or from the Building Department, Howrah Municipal Corporation as per records of the last ten years.

The petitioners on receipt of the reply under the Right to Information Act submitted representation before the Howrah Municipal Corporation on 13th August, 2020 praying for demolition of the unauthorized construction.

The petitioners allege that the same has not been taken up for consideration till date.

As it appears that the representation of the petitioners 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 nos. 2 and 3 to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners within a period of three months 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 petitioners immediately thereafter.

In the event the aforesaid respondents 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 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 petitioners and all points are left open to be decided by the aforesaid respondents at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 13th August, 2020 followed by the notice demanding justice dated 28th August, 2020 and the reply under the Right to Information Act dated 18th March, 2020 to the aforesaid respondents 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.)