

03
11.08.2022
d.p.

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

W.P.A. 2366 of 2020

**Wasimul Haque
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Rabiuddin Ahmed,
Md. Rehan,
...For the Petitioner.**

**Mr. Manas Kundu.
...For the State.**

**Mr. Srijan Nayak,
Mr. Subhrangsu Panda.
...For KMC.**

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

None appears on behalf of the respondent Nos. 8 and 9 in spite of service.

The petitioner alleges that the respondent Nos. 8 and 9 are constructing additional floor in the Premises No. 25/5, Kustia Masjid Bari Lane, P.S.- Tiljala, Kolkata-700039 Ward No. 66, Borough – VII without obtaining any sanction from the Kolkata Municipal Corporation and further making construction in deviation of the plan which has been sanctioned.

The petitioner raised objection before the Kolkata Municipal Corporation by a letter dated 10th January,

2020 and alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the Kolkata Municipal Corporation is yet to receive instruction whether the allegation made by the petitioner is correct 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.5 being the Executive Engineer, Building Department, Borough-VII 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 10th January, 2020 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.)