

List dt.6.6.22
Item No. 210
21.06.2022
d.p.

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

W.P.A. 2498 of 2020

**Pradip Kumar Saha
-versus
The State of West Bengal & Ors.**

**Mr. Satyam Mukherjee.
...For the Petitioner.**

None appears on behalf of the private respondent in spite of service.

The petitioner alleges illegal and unauthorized construction by the respondent No. 6, Niranjana Saha @ Choti just adjacent to the petitioner's premises being holding No.33 appertaining to Plot No. 5078, Khatian No. 3376, P.O. & P.S.-Baruipur, District- South 24-Parganas.

The petitioner submits that the construction of a G+2 storied pucca structure has been made without obtaining any sanction from the Municipality.

It has further been submitted that the construction has been made in such a manner that the drain of the petitioner has been completely blocked.

The petitioner filed a representation before the Chairman of the Municipality on 17th April, 2019 followed by reminder dated 21st June, 2019 and alleges

that the said representations have not been considered by the respondent Municipality till date.

The petitioner submits that during the pendency of the present writ petition, the respondent no. 6 has already completed construction of the G+2 storied building.

At the time of filing the writ petition, the construction was made only upto the plinth level but taking advantage of the pendency of the writ petition, the G+2 storied structure has been completed.

The petitioner intends to file a fresh representation giving the details of the unauthorized construction that has been made by the said respondent.

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.4 being the Chairman, Baruipur 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 twelve weeks from the date of filing the representation made by the petitioner. 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 17th April, 2019 followed by reminder dated 21st June, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

Leave is granted to the petitioner to file a fresh representation giving the upto date details of the unauthorized construction allegedly made by the private respondent. The said representation shall also be taken into consideration by the Municipality at the time of considering the present case.

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.)