

List dt.6.6.22
Item No. 216
21.06.2022
d.p.

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

W.P.A. 2655 of 2020

**Tulsi Kabiraj
-versus
The State of West Bengal & Ors.**

**Mr. Malay Bhattacharyya.
...For the Petitioner.**

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

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

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

The petitioner and the private respondent are neighbors residing in adjacent plot of land under the jurisdiction of the Bishnupur Municipality.

The petitioner is the owner and occupier of R.S. Plot No. 2820 corresponding to LR Plot No.11825 and the private respondent is the owner and occupier in respect of the R.S. Plot No. 2813 corresponding to LR Dag No. 11826.

The petitioner states that in between the two plots, there is a common passage of 4ft. Both the

families on their mutual understanding left the 4 ft. common passage vacant for the purpose of renovation of their respective building.

The allegation of the petitioner is that the private respondent started to demolish his old house with the view to construct a new building over the said property by forcefully encroaching the common passage and also trying to demolish the building erected by the petitioner.

The petitioner made representation before the Chairman of Bishnupur Municipality on 6th January, 2020 and alleges that the same has not been taken up for consideration 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 respondent no.3 being the Chairman, Bishnupur 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 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 6th January, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

Report of the Inspector-in-Charge, Bishnupur Police Station, Bankura dated 16th June, 2022 filed in Court today is taken on record.

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.)