

Item No. 28

26.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3736 of 2022
Sri Balai Chandra Kar & Ors.
v.
The State of West Bengal & Ors.

Mr. Tapan Coomaar Dey
Ms. Shreya Chatterjee
Mr. Sk. Apptabuddin
... for the petitioners.

Mr. Samiran Mondal
Mr. Abhinaba Dan
Mr. N. Samanta
... for the respondent Nos. 8 & 9.

None appears on behalf of the Bishnupur Municipality despite service.

The petitioners complain of unauthorized construction at the instance of the private respondents.

The petitioners allege that repeated representations filed against such unauthorized construction have not been taken up for consideration till date.

Learned advocate representing the private respondents submits that the petitioners are guilty of unauthorized construction. A Civil Suit with the self-same allegation is pending consideration.

The issue before the Municipality is regarding unauthorized construction only. The representation filed by the petitioners dated December 30, 2021 is pending.

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

The petitioners are directed to forward a copy of the representation dated December 30, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavits-of-service and the notice of upgradation dated September 19, 2022 be retained with the records.

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

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(Amrita Sinha, J.)