

Item No. 29

30.08.2022  
Ct-24

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

WPA 4092 of 2022  
Projesh Kanti Mazumder  
v.  
The Howrah Municipal Corporation & Ors.

Mr. Anindya Halder  
... for the petitioner.

Ms. Jayeeta Sinha  
Mr. Sandip Mandal  
... for the State respondents.

Mr. Sandipan Banerjee  
Mr. Sobhan Majumder  
Mr. Ankit Sureka  
... for HMC.

Mr. Tanmoy Mukherjee  
Mr. Souvik Das  
Mr. K. Raihan Ahmed  
Mr. Rudranil Das  
... for the respondent nos. 7 to 11.

Ms. Debasree Dhamali  
... for the Bally Municipality.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 7 to 11.

It is the specific contention of the petitioner that the construction of G+7 storied building has been made even though the same is impermissible in law.

According to the petitioner, the lane in front of the plot of land where the construction is being made, permits construction of only G+4 storied building.

It is the further contention of the petitioner that the statutory open spaces have not been maintained by the private respondents at the time of making construction.

The petitioner filed representation through the learned advocate in January 2022 and alleges that the same has not been taken up for consideration till date.

Learned advocate representing the private respondents denies the submissions made on behalf of the petitioner.

The property in question is presently under the jurisdiction of the Bally Municipality.

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 Administrator of the Bally 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 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 January 3, 2022 to the respondent no. 13 i.e. the Administrator, Bally Municipality 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.

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**(Amrita Sinha, J.)**