

Item No. 26

16.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 5035 of 2022

Farouk Ali Ostagar
v.
Bidhannagar Municipal Corporation & Ors.

Mr. Ashim Kumar Routh
Mr. Ananya Mondal
... for the petitioner.

Mr. Tirthankar Dey
Mr. A.K. Nag
Mr. S. Banerjee
... for BMC.

The petitioner alleges that the representation filed before the Bidhannagar Municipal Corporation on July 16, 2019 has not been taken up for consideration till date.

The allegation of the petitioner is regarding unauthorized construction at the instance of the respondent nos. 10 to 17 over a portion of the water body without necessary conversion of the classification of the land.

Learned advocate representing the Bidhannagar Municipal Corporation submits that steps have been taken pursuant to the representation filed by the petitioner.

None appears on behalf of the respondent nos. 10 to 17.

In view of the order that I intend to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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 , the Commissioner of Bidhannagar Municipal Corporation 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 July 16, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The Bidhannagar Municipal Corporation shall ensure that no unauthorized construction is carried on at the instance of the private respondents till a decision is taken by the Bidhannagar Municipal Corporation in response to the complaint filed by the petitioner.

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.)