

Item No. 31

13.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7419 of 2021
Chanchal Kundu

v.

The Principal Secretary, the Ministry of Municipal
Affairs, Government of West Bengal & Ors.

Ms. Sucharita Biswas
Mr. Umesh Kumar Saw
... for the petitioner.

Mr. Asish Kumar Guha
Mr. Naren Ghosh Dastidar
... for the State respondents.

None appears either on behalf of the Municipality
or on behalf of the respondent nos. 9, 10 and 11.

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

The petitioner alleges illegal and unauthorized
construction at premises no. 378, G.T. Road, Khatir
Bazar, P.O.- Mahesh, P.S.-Serampore comprising of Dag
No. 4802(P), R.S.-Khatian No. 1553, L.R. Dag No. 9337,
L.R. Khatian No. 1721 at Mouza-Mahesh, J.L. No. 15,
District-Hooghly measuring about 1 cottah and 18
chittacks.

The petitioner submits that in response to the
complaint filed by the petitioner before the Serampore
Municipality, the men and agents of the Serampore
Municipality visited the premises for inspection.

After the said inspection was conducted no steps have been taken by the Municipality to dispose of the objection filed by the petitioner.

In the absence of the learned advocate representing the Municipality, the Court is not in a position to decide the issue conclusively.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondents, 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 Serampore 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 February 26, 2021 to the aforesaid respondent 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.)