

Item No. 24

23.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6339 of 2022

Basudeb Kundu
v.
The State of West Bengal & Ors.

Mr. Dhananjay Banerjee
Ms. Oindrila Ghosh
... for the petitioner.

Mr. Suddhadev Adak
... for the Municipality.

Mr. Niladri Sekhar Ghosh
Ms. S. Chatterjee
Mr. S. Mondal
... for the respondent no. 8.

The petitioner complains that the respondent no. 8 has made construction without obtaining any sanction plan from the Arambagh Municipality. The classification of the land over which construction has been made is recorded as Danga.

The petitioner filed representation before the Municipality and alleges that the same has not been taken up for consideration till date.

Learned advocate representing the respondent no. 8 submits that the construction is a pre-existing one and the same has been made following the due provision of law.

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 concerned officer of the respondent no. 2 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 October 4, 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.)