

Item No. 32

24.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7566 of 2022

Rakhi Mukherjee
v.

The State of West Bengal & Ors.

Mr. Supratik Basu
Ms. Bratiti Pramanick
Mr. Subham Shaw
... for the petitioner.

Mr. Supriya Ranjan Saha
Ms. Priyanka Das
... for the respondent no. 6.

Ms. Shraboni Sarkar
Ms. Debapriya Chatterjee
... for the State.

The petitioner complains of construction of an illegal staircase just beside the wall of the petitioner's premises by the respondent no. 6, who is the adjacent neighbour of the petitioner. The petitioner alleges that the respondent no. 6 has also constructed a drain adjoining the boundary wall of the petitioner.

The petitioner made representation before the Municipality in March 2022 and alleges that the said representation has not been considered till date.

Learned advocate representing the respondent no. 6 denies the contention of the petitioner.

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 competent 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 March 28, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

None appears on behalf of the Municipality.

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.)