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06.07.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A. 9990 of 2021
IA No. CAN 1 of 2021**

**Anup Paul & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Sanjoy Saha.
...For the Petitioners.**

**Mr. Probal Sarkar.
...For the Municipality.**

**Mr. Partha Pratim Roy.
...For the Respondent No.8.**

Re: IA No. CAN 1 of 2021

The petitioner No.1, Aunp Paul has expired on 26th April, 2021 leaving behind his widow, daughter and son. Details of the heirs of the deceased petitioner No.1 is appearing at paragraph 2 page 5 of the application filed by the petitioners for substitution.

The application for substitution has been filed within time.

Let the heirs of the deceased petitioner No.1 appearing at paragraph 2 of the application be impleaded as petitioners in the present writ petition.

The department is directed to make the necessary amendment in the cause title of the writ petition.

The application being CAN 1 of 2021 is disposed of.

Re: WPA 9990 of 2021

Leave is granted to the learned advocate-on-record of the petitioners to implead the Chairman of the Murshidabad Municipality as party respondent in the present writ petition.

Formal service of a copy of the writ petition upon the Chairman of the Murshidabad Municipality stands dispensed with as learned advocate has already entered appearance on behalf of the Murshidabad Municipality.

Leave is granted to the learned advocate-on-record of the respondent No.8 to file Vakalatnama in the department and supply the filing number to the officer attached to this Court.

The petitioners allege illegal and unauthorized construction by the private respondent Nos. 8 and 9.

The allegation of the petitioners is that the private respondents have made unauthorized construction by encroaching upon the municipal road.

The petitioners made representation before the Murshidabad Municipality on 1st April, 2021 and allege that the same has not been taken up for consideration till date.

Learned advocate appearing for the private respondent no. 8 denies the allegation of the petitioners.

Learned advocate appearing for the Murshidabad Municipality submits that the private respondents have made construction without a valid sanction plan.

As it appears that the representation of the petitioners 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 Murshidabad Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 1st April, 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.

(Amrita Sinha, J.)