

Item No. 35

30.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 8601 of 2022
Pranab Kumar Mukherjee
v.
The State of West Bengal & Ors.

Ms. Rama Halder(Santra)
... for the petitioner.

Mr. Himadri Sikhar Chakraborty
Ms. Joyee Maity
... for the State respondents.

Mr. Sandipan Banerjee
Mr.Sobhan Majumder
... for the Durgapur Municipal Corporation.

The petitioner alleges that the respondent no. 9 has made construction over Dag Nos. 1009 and 1042 which has been recorded as 'Rasta' in the record of rights.

It is the submission of the petitioner that the aforesaid two dag numbers are used by the villagers for communication and transportation. The same is a village road and is used by the inhabitants of the said locality.

The petitioner claims to have made representation before the Durgapur Municipal Corporation on April 21, 2022 and alleges that the same has not been taken up for consideration till date.

None appears on behalf of the respondent no. 9 despite service.

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

Mr. Sandipan Banerjee, learned advocate representing the Durgapur Municipal Corporation is yet to receive any instruction from his client.

As it appears that the representation filed by the petitioner before the Commissioner, Durgapur Municipal Corporation is pending consideration no useful purpose will be served by keeping the writ petition pending and the respondent no. 9 will not also be prejudiced if the writ petition is disposed of as follows.

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 Durgapur 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 April 21, 2022 to the respondent no. 2 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.

Sh

(Amrita Sinha, J.)