

Sl. No.15
05.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 10111 of 2022

Ramen Das
vs.
Kanchrapara Municipality & Ors.

Mr. Shamim Ahmmed
Ms. Gulsanwara Pervin
... for the petitioner
Mr. Shibaji Kumar Das
Ms. Rupsa Sreemain
... for the respondent nos.6 to 8

The petitioner alleges that the respondent nos.6, 7 & 8 were making construction without leaving the statutory side open spaces. A complaint was filed before the Kanchrapara Municipality.

It appears from the documents annexed to the writ petition that the Municipality issued notices of hearing but there is nothing on record to suggest that the hearing stood concluded or whether any order has been passed upon hearing the parties.

The petitioner as well as the private respondents are brothers.

Learned advocate for the private respondents submits that construction is being made in accordance with the plan sanctioned by the Municipality.

It has been submitted that on the date fixed for hearing, the private respondents were present but the petitioner remained absent.

None appears on behalf of the Municipality.

Affidavit of service filed in Court is taken on records.

As it appears that there is dispute with regard to not maintaining statutory side open spaces by the private respondents at the time of making construction, accordingly, the writ petition is disposed of by directing the respondent no.1, the Chairman of Kanchrapara 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 necessary party/parties including the petitioner within a period of twelve weeks 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 unauthorised 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 13th December, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities

(Amrita Sinha, J.)