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23.09.2022
d.p.

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

W.P.A 10293 of 2022

**Md. Nizamuddin
-versus
The State of West Bengal & Ors.**

**Mr. Siva Prasad Ghose.
...For the Petitioner.**

**Ms. Sudipa Ray,
Mr. Sajal Kumar Pandit.
...For the State.**

**Mr. Debasis Kar,
Mr. Arka Tilak Bhadra.
...For the Private Respondents.**

**Mr. Syamal Kumar Das,
Ms. Krishna Yadav.
...For the Municipality.**

The petitioner alleges illegal and unauthorized construction at the instance of the respondent Nos.4 to 7.

The petitioner complains that the representation filed before the Titagarh Municipality in April 2022 has not been considered till date.

Learned advocate appearing for the private respondents denies the contention of the petitioner.

It has been submitted that a Civil Suit is pending in between the parties.

An order of injunction has been passed by the learned Court below restraining the defendant therein i.e. the petitioner herein to interfere with the construction work.

Be it recorded that the issue in the present case is only regarding unauthorized construction. The Municipality is not a party in the pending Suit.

The Municipality is the appropriate body to consider as to whether the construction is being made in accordance with the plan sanctioned by the Municipality or not.

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 respondent nos. 2 and 3 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 respondents at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 20th April, 2022 to the aforesaid respondents 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.)