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05.09.2022
d.p.

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

W.P.A. 10675 of 2022

**Sankari Sadhukhan & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Sanjib Das.
...For the Petitioners.**

**Mr. Supriyo Roy Choudhury,
Mr. Sankar Ghosh.
...For the Respondent
Nos. 2 and 3.**

**Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar.
...For the Respondent
Nos. 6 and 7.**

**Mr. Susovan Sengupta,
Mr. Srikanta Paul.
...For the State.**

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

The petitioners allege illegal and unauthorized construction at the instance of the respondent Nos. 6 and 7.

It is the specific allegation of the petitioners that the private respondents have not maintained the statutory side open spaces and have made construction by encroaching the common passage in between two premises being No. N/3, Jessore Road (South) and

N/3/1 Jessore Road (South), Ward No. 30 under the jurisdiction of the Barasat Municipality.

Learned advocate appearing for the respondent Nos. 6 and 7 denies the contention of the petitioners.

It is the specific submission of the private respondents that construction is being made strictly in accordance with the plan sanctioned by the Municipality in June 2019.

Learned advocate appearing for the Municipality submits that a stop work notice has been issued upon the respondent No. 7 directing the said respondent to stop all construction and constructional related work immediately.

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 respondent no. 2 being the Barasat 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 17th February, 2022 received by the Municipality on 23rd February, 2022 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.)