

Item No. 107(ML)

09.09.2022

Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12339 of 2021
Sabita Mallick

v.

The State of West Bengal & Ors.

Md. Mansoor Alam
... for the petitioner.

Mr. Achintya Kumar Banerjee
... for KMC.

Mr. Pinaki Dhole
Ms. Ananya Neogi
... for the State.

The petitioner complains of illegal and unauthorized construction that has been made only on four chittacks of land at the instance of the respondent no. 8 in the Premises No. Q229/F/1, Umesh Neogi Road, Police Station-Metiabruz.

The petitioner submits that the construction has been made in such a manner that the entire egress and ingress to the petitioner's plot has been blocked.

The petitioner claims to have made representation before the Kolkata Municipal Corporation and alleges that the same has not been taken into consideration till date.

Learned advocate representing the Kolkata Municipal Corporation draws attention of the Court to the fact that the representation was filed before the

Corporation on July 30, 2021 and the writ petition has been affirmed on August 3, 2021.

It has been submitted that the Corporation did not have sufficient time to take into consideration the representation filed by the petitioner. It has further been submitted that the concerned Borough Officer has not been impleaded as party and no representation has been served upon the said officer.

It has been contended that the writ petition is premature and is liable to be dismissed.

It appears from the representation filed on behalf of the petitioner that the same has not been addressed or even served upon the concerned Executive Officer of the borough.

The Executive Officer of the borough is the competent authority to take into consideration the representation filed by the petitioner.

In view of the above, leave is granted to the petitioner to file a comprehensive representation before the Executive Engineer of the concerned borough.

In the event, a representation is filed the same shall be taken into consideration by the Executive Officer of the borough strictly in accordance with law after giving reasonable opportunity of hearing to the petitioner and other necessary parties within a period of three months from the date of receipt of the representation. 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 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.

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(Amrita Sinha, J.)