

Item No. 36

23.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11352 of 2022
Anup Kumar Bisoi

v.

The Kharagpur Municipality & Ors.

Mr. Sukanta Das
... for the petitioner.

Mr. Supratic Roy
... for the respondent nos. 7 & 8.
Vakalatnama Filing No. A-12247/22.

Mr. Susanta Pal
Mr. Ananda Dulal Sarkar
... for the State.

The petitioner complains that the private respondent is making construction in deviation of the plan that has been sanctioned by the Kharagpur Municipality.

The petitioner alleges that the representation filed against such unauthorized construction before the Municipality on January 7, 2022 has not been taken up for consideration till date.

Learned advocate representing the private respondent denies the contention of the petitioner. It has been submitted that construction is being made in accordance with the plan sanctioned by the Municipality.

It has further been contended that a Civil Suit is pending between the parties being TS No. 62 of 2021. The learned Court below has taken note of the fact that

the construction was being made in terms of the plan sanctioned.

The Municipality is not a party in the Civil Suit. In the absence of the Municipality it will not be possible for the learned Court below to ascertain as to whether the construction is being made in accordance with the plan or not. The representation filed by the petitioner alleging unauthorized construction is pending disposal.

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 no. 1 being the Kharagpur 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 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 January 7, 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.

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(Amrita Sinha, J.)