

Item No. 38

27.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11750 of 2022
Gobinda Ghosh & Ors.
v.
The State of West Bengal & Ors.

Mr. Sanat Kumar Roy
Mr. Abhishek Banerjee
... for the petitioners.

Ms. Sudipa Roy
Ms. Tuli Sinha
... for the State.

Mr. Dipanjan Datta
Mr. Sayan Datta
Ms. Reshma Chatterjee
... for the respondent nos. 6 & 7.

The petitioners complain of illegal and unauthorized construction at the instance of the respondent nos. 6 & 7.

The petitioners allege that the representation filed before the Baidyabati Municipality objecting to the unauthorized construction has not been taken into consideration till date.

Learned advocate representing the respondent nos. 6 & 7 disputes the contentions of the petitioners.

It has been submitted that construction has been made strictly in accordance with the plan sanctioned by the Municipality.

None appears on behalf of the Municipality despite service.

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

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 Baidyabati Municipality to conduct a spot inspection upon prior notice to both the parties to ascertain the veracity of the allegations made by the petitioner and thereafter 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 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 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 petitioner.

The petitioners are directed to forward a copy of the representation dated May 30, 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.)