

Item No. 10

02.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14534 of 2021
Sekhar Kumar Ghosh
v.
The State of West Bengal & Ors.

Mr. Shahan Shah
Mr. Md. Shamim Halder
... for the petitioner.

Mr. Shuvro Prakash Lahir
... for the State respondents.

Mr. Sankar Halder
Mr. Sarthak Burman
... for the respondent nos. 2 o 4.

Mr. Abhijit Sarkar
Mr. Raja Biswas
... for the respondent nos. 6 & 7.

The petitioner alleges illegal and unauthorized construction by the respondent nos. 6 & 7 in the Holding No. 4, Ward No. 15 under the Krishnanagar Municipality.

The complaint lodged by the petitioner has duly been enquired by the Municipality. A report has been placed before this Court signed by the Assistant Engineer, Public Work Department, Krishnanagar Municipality. The enquiry report mentions that on spot enquiry revealed that the two storied building was constructed many years ago but the same was without obtaining any municipal sanctioned plan.

It appears from the submissions made on behalf of the petitioner as well as the private respondents that the

property in question is a joint undivided property. A partition suit is pending in between the parties, who are brothers. The alleged construction is an old one. The decree in preliminary form has been passed in the partition suit.

As the Krishnanagar Municipality has already formed an opinion that the construction was made many years ago, accordingly, the Municipality shall consider as to whether any step is required to be taken at the stage against such construction which was made without any sanctioned plan.

It is the specific contention of the learned advocate for the petitioner that new shop rooms have been constructed in the vacant land of the aforesaid plot by the private respondents. The enquiry report of the Municipality does not mention about the construction and the shop rooms in the ground floor. The Municipality shall revisit the plot in question and take a decision with regard to the new construction made thereon.

The writ petition is accordingly disposed of by directing the respondent no. 2 being the Krishnanagar 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 new 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 July 2, 2021 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.)