

Sl. No.52
23.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 15468 of 2022

Mathura Mohan Datta

vs.

The State of West Bengal & Ors.

Mr. Pritam Chowdhury

Mr. Abhisek Addhya

... for the petitioner

Mr. Bibek Jyoti Basu

Mr. Uttam Kumar De

... for the State

Mr. Soumik Ganguli

... for the respondent nos.2 & 3

The petitioner complains that the private respondents are making construction without a valid sanction plan in such a manner that the statutory side open spaces are not being maintained.

The petitioner alleges that the representation filed objecting to such unauthorised construction before the Bankura Municipality has not been taken up for consideration till date.

Service upon the private respondents have returned with the postal endorsement 'Refused'.

Learned advocate appearing on behalf of the Municipality submits that the private respondents were making construction under the 'house for all' scheme. A

lay out along with model plan was given to the private respondent within the Plot No.603.

Instruction provided by the Bankura Municipality does not clearly mention as to whether construction was being made in accordance with law or not.

In view of the above, the present writ petition is disposed of by directing the respondent no.4 being the Executive Engineer, Bankura 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 12 weeks 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 unauthorised 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 petitioner is directed to forward a copy of the representation dated 30th June, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Affidavit of service filed in Court is taken on record.

Instruction given by the Sub Assistant Engineer, PWD, Bankura Municipality dated 10th August, 2022 be retained with the records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)