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07.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 15654 of 2022

**Haran Bag & Anr.
-versus
The State of West Bengal & Ors.**

**Ms. Pampa Dey (Dhabal).
...For the Petitioners.**

**Mr. Jahar Dutta,
Mr. Bipin Ghosh.
...For the State.**

**Mr. Shahan Shah.
...For the Respondent
Nos. 7 and 8.**

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

None appears on behalf of the Municipality in spite of service.

The petitioners allege illegal and unauthorized construction at the instance of the respondent Nos. 7 and 8.

The petitioners complain that the representation filed before the Maheshtala Municipality has not been taken up for consideration till date.

The allegation of the petitioners is that the private respondents are making construction without obtaining any sanction plan/permission from the Municipality.

Learned advocate appearing for the private respondents submits that the private respondents have got less than half cottah of land and they do not have any other place to stay and accordingly, they have raised construction over the said plot of land.

It has been submitted that the construction is an old one.

On receipt of a complaint from the petitioners, the Sub-Assistant Engineer, In Charge of Building Department, Maheshtala Municipality has issued a notice on 23rd November, 2021 requesting the private respondents to discontinue the construction work immediately.

The petitioners complain that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 Maheshtala Municipality to 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 petitioners 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 petitioners.

The petitioners are directed to forward a copy of the representation dated 22nd November, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

As it appears that the Municipality has already taken steps to issue the stop work notice, accordingly, the Municipality is to ensure that no further construction is raised at the said premises till the matter is finally decided by the Municipality.

The instruction given by the Inspector-in-Charge, Maheshtala Police Station dated 21st July, 2022 be retained with the records.

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.

(Amrita Sinha, J.)