

Item No. 63

31.10.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16178 of 2022
Masud Ahmed Molla

v.

The State of West Bengal & Ors.

Mr. Asit Kumar Bhattacharya
... for the petitioner.

Mr. Saikat Chatterjee
... for the respondent no. 8.

Mr. Himadri Sikhar Chakraborty
Mr. Parikshit Goswami
... for the State respondent.

The petitioner alleges that the private respondent is making illegal and unauthorized construction in the fourth floor of Hazi Eshaque Market at Premises No. W-2, Akra Road, now S.A. Farooque Road, Police Station-Rajabagan, Kolkata-700 018.

The petitioner alleges that the representation made before the Kolkata Municipal Corporation in June 2022 alleging such illegal construction has not been addressed till date.

Learned advocate representing the private respondent denies the allegation. It has been submitted that only repairing work is being carried on at the said premises. It is the further contention that the property in question is recorded in favour of the wife of the private respondent who has not been impleaded as party.

Learned advocate for the State respondents has obtained instruction from the Rajabagan Police Station wherefrom it appears that a complaint was lodged before

the police alleging unauthorized construction. The Sub-Inspector of Rajabagan Police Station communicated to the Kolkata Municipal Corporation on June 30, 2022 as regards the said unauthorized construction and the Kolkata Municipal Corporation has already issued notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on July 4, 2022 clearly mentioning that the construction is being carried out without any sanctioned plan.

As it appears that the Corporation has already taken steps in response to the complaint lodged by the petitioner accordingly the present writ petition disposed of by directing the respondent no. 5 to initiate appropriate proceeding to deal with such unauthorized construction and conclude the same 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 not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

The petitioner is directed to forward a copy of the representation dated June 23, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Affidavit-of-service and the report filed by the Officer-in-Charge, Rajabagan Police Station are taken on record.

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.)