

Item No. 33

13.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 17859 of 2021
Noor Islam Sarkar @ Nawab Ali Sarkar
v.
State of West Bengal & Ors.

Mr. Yusuf Ali
... for the petitioner.

Mr. Anirban Das
... for the respondent no. 8.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Tirthankar Dey
... for BMC.

Ms. Sudipa Roy
Mr. Srinath Singha Roy
... for the State.

The petitioner alleges illegal and unauthorized construction by the private respondents. The objection filed by the petitioner before the Bidhannagar Municipal Corporation in September 2021 is yet to be disposed of.

Learned advocate representing the Municipality submits that a notice has been issued to the persons responsible for making construction to produce documents in support of the construction made. An order has also been passed directing the persons not to carry out any kind of construction at Plot No. 207, Mouza- Mondal Ganthi, Ward No. 7.

None appears on behalf of the respondent nos. 6,7, 9 to 13.

Learned advocate representing the respondent no. 8 is yet to receive any instruction.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondents, if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioner 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. 3 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 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 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 September 27, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Notice issued by the Executive Engineer, Bidhannagar Municipal Corporation on December 9, 2022 and the affidavit-of-service are taken on record.

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.)