

07
30.09.2022
d.p.

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

W.P.A 17504 of 2022

**Shahansha Jahan & Ors.
-versus
Barrackpore Municipality & Ors.**

**Mr. Tarique Quasimuddin,
Mr. Abbas Ibrahim Khan.
...For the Petitioners.**

**Mr. Shyamal Kumar Das,
Mr. Krishna Yadav.
...For the Municipality.**

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

None appears on behalf of the private respondent in spite of service.

The petitioners allege illegal and unauthorized construction at “Darbar-E-Waris” at the premises No. 56, G.C. Road, P.S.-Titagarh under the jurisdiction of the Barrackpore Municipality.

It has been submitted that the construction is being made in a Sufi shrine which is in existence for more than a century.

The petitioners complain that repeated representations made objecting to such unauthorised

construction have not been taken up for consideration by the Barrackpore Municipality till date.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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.1 being the Barrackpore 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 Municipality shall ensure that no unauthorized construction is carried on at the said premises without a proper plan sanctioned by the Municipality.

The petitioners are directed to forward a copy of the representation dated 18th July, 2022 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.

(Amrita Sinha, J.)