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13.12.2022
d.p.

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

W.P.A 18848 of 2021

**Sri Debabrata Sen
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Arun Kumar Das.
...For the Petitioner.**

**Mr. Alope Kumar Ghosh.
...For KMC.**

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

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

The petitioner complains of illegal and unauthorized construction by encroaching the public road in front of premises no. 27A, Mahendra Sarkar Street, Kolkata-700012, Ward No.-50 under the jurisdiction of the Kolkata Municipal Corporation.

In response to the complaint filed by the petitioner before the Corporation in October 2021, the authority inspected the spot and gave opportunity of hearing to the petitioner as well as the private respondent.

The petitioner complains that the proceeding initiated in response to the complaint filed by the petitioner is yet to be concluded.

Learned advocate appearing for the Corporation submits, upon instructions, that the proceeding has duly been initiated to deal with such unauthorized construction and opportunity of hearing has been granted to both the parties.

Learned advocate for the Corporation is however, not aware as to whether the proceeding has been concluded or not.

The envelope serving copy of the writ petition upon the private respondent has returned unserved with the postal endorsement 'not claimed'. The unserved postal envelope is retained with the records.

As it appears from the submissions made on behalf of both the parties that the proceeding has already been initiated, accordingly, the concerned officer of the Kolkata Municipal Corporation is directed to conclude the said proceeding in accordance with law, after giving fair and reasonable opportunity of hearing to the parties, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

A formal order shall be passed and communicated to the parties.

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 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.)