

Item No. 17

30.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 18339 of 2022

Mahmood Alam Ansari
-vs.-
The Kolkata Municipal Corporation & Ors.

Mr. Asit Kumar Bhattacharya
Mr. Biswarup Biswas
...For the Petitioner.

Mr. Gausul Alam
Mr. Ranjit Rajak
... for the State.

Mr. Ayan Dutta
Mr. Bimalendu Das
Mr. Shomrik Das
...For the respondent nos. 7,8,10,12,13,15 and 16.

The petitioner complains of illegal and unauthorized construction at the premises no. 5B/1, Chandra Nath Roy Road, Ward No. 66, Borough-VII under the jurisdiction of the Kolkata Municipal Corporation, Tollygunge unit.

The petitioner complains that the representation dated July 14, 2022 objecting to such unauthorized construction has not been taken into consideration till date.

Learned advocate representing the private respondent nos. 7, 9, 11, 12, 14, 15 and 16 denies the contention of the petitioner.

It has been submitted that the respondent no. 9, Mrs. Parul Sarkar, respondent no. 11, Haripada Paul

and respondent no. 14, Khagendranath Singh have expired.

The private respondents challenge the locus standi of the petitioner to file the writ petition.

None appears on behalf of the Kolkata Municipal Corporation.

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

With regard to the objection raised by the private respondents about the locus standi of the petitioner to file the present writ petition, it is settled law that as regards the issue of unauthorized construction, even stranger has the locus standi to move the appropriate authority for relief.

A writ petition challenging the inaction on the part of the concerned authority to take steps in response to a complaint filed against unauthorized construction at the instance of a stranger will be maintainable, provided there is no vested interest on the part of the person seeking relief.

The representation dated July 14, 2022 filed by the petitioner is pending consideration.

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. 2 or his delegate 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 July 14, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is 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.)