

Item No. 22

04.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 19230 of 2022
Beni Madhab Pal

v.

The State of West Bengal & Ors.

Mr. Uttiya Roy
Mr. Arnab Mondal
... for the petitioner.

Mr. Dwarika Nath Mukherjee
Mr. Manik Lal De
... for the State.

The petitioner complains of illegal and unauthorized construction at the instance of the respondent no. 5.

The writ petition which was sent to the respondent no. 5 at his native place has been returned with the postal endorsement "Refused" and the service sent to the petitioner at place where the alleged construction is being made has returned with the postal endorsement "Addressee not located". Refusal of postal article being good service, the matter is taken up for consideration in his absence.

None appears on behalf of the Burdwan Municipality despite service.

The petitioner alleges that the objection filed against the illegal construction has not been taken into consideration by the Burdwan Municipality till date.

As the Municipality is not represented in Court, the matter cannot be decided conclusively.

In view of the order that I propose to pass, none of the parties would be prejudiced 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. 2 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 28, 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.)