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07.11.2022
d.p.

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

W.P.A 19831 of 2022

**Jagacha Bayam Samity
-versus
The Howrah Municipal Corporation & Ors.**

**Ms. Shebatee Datta,
Ms. Poulami Roy.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Sobhan Majumder,
Mr. Ankit Surekha.
...For HMC.**

**Mr. Sanjib Dawn.
...For the Respondent No.6.**

**Mr. Jahar Datta,
Mr. Bipin Ghosh.
...For the State.**

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

The report filed by the Inspector, Jagacha Police Station dated 12th September, 2022 in Court today is taken on record.

Learned advocate for the respondent No.6 submits that he has filed Vakalatnama in the department vide filing No. A-21853 dated 31st October, 2022. The department is directed to tag the same with the records.

The petitioner complains that the respondent No.6 is responsible for making illegal and unauthorized construction over Dag No. 568 of Mouza-Jagacha, J.L. No. 6, Khatian No. 682.

In response to the complaint lodged by the petitioner, Howrah Municipal Corporation conducted a hearing and at the time of hearing it was revealed that no construction was made in Dag No. 568.

According to the petitioner, construction resumed after the hearing was conducted by the Howrah Municipal Corporation.

Learned advocate appearing for the respondent No.6 specifically denies the submission of the petitioner.

It has been submitted that no construction at the instance of the respondent No.6 is made in the Dag No. 568.

Learned advocate for the respondent No.6 further submits that the plot holder of the Dag No.568 has not been impleaded as party in the present writ petition and accordingly, prays for dismissal of the writ petition on the ground of non-joinder of necessary party.

Learned advocate appearing for the Corporation submits that the Plot No. 568 was inspected and apart from certain building materials being stacked over there, construction work was not noticed.

It appears that the petitioner made further representation before the Corporation in the month of

August 2022 alleging unauthorized construction. The said representation is yet to be considered.

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.4 being the Assistant Engineer, Howrah Municipal Corporation 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 intimate the Corporation the person responsible for making construction as the respondent No.6 has categorically stated that the said respondent is neither the owner, nor the possessor, nor responsible for making construction over the Plot No. 568. Corporation shall serve notice of hearing upon the proper person.

The petitioner is directed to forward a copy of the representation dated 12th August, 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.)