

Sl. No.24
07.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20145 of 2022

Krishna Mukherjee & Ors.
v.
The State of West Bengal & Ors.

Mr. Samrat Choudhury
... for the petitioners
Mr. Sayan Chattopadhyay
Mr. Kaustav Sen
... for the private respondent

Mr. Sudipto Panda
Mr. Munmun Tewary
... for the State

Accommodation has been sought for on behalf of the learned advocate representing the Municipality.

The petitioners complain of illegal and unauthorised construction by the respondent no. 6. Specific allegation of the petitioners is that construction is being made without maintaining the statutory side open spaces.

Learned advocate representing the respondent no.6 denies the contention of the petitioners. It has been submitted that the instant writ petition has been filed out of vengeance as the respondent no.6 had earlier filed a writ petition against the present petitioner alleging illegal and unauthorised construction. The issue of unauthorised construction was duly considered by the

Executive Officer of the Municipality but final order has not been passed as yet.

Without going into the allegation and counter allegation of the parties, as it appears that the representation filed by the petitioners objecting to illegal and unauthorised construction is pending consideration at the end of the Municipality none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

The writ petition is accordingly disposed of by directing the respondent no. 2 being the Arambagh 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 12 weeks 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 unauthorised 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 petitioner.

The petitioners are directed to forward a copy of the representation dated 22nd August, 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 is taken on records.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)