

Item No. 49

19.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20254 of 2022
Shyamali Majumder
v.
The State of West Bengal & Ors.

Mr. Pramit Chakraborty
Mr. Ravi Kumar Sharma
... for the petitioner.

Ms. Sutapa Sanyal
Ms. Susnita Saha
... for the State.

None appears either on behalf of the respondent no. 6 or the Gayeshpur Municipality.

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

The petitioner alleges that the private respondent has illegally and unauthorizedly constructed a boundary wall without a proper sanction and has blocked the ingress and egress of the petitioner. The petitioner alleges that the objection filed before the Municipality on February 4, 2021 is yet to be disposed of.

In the absence of the Municipality it will be possible for the Court to decide the issue conclusively.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondents, 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 Board of Councillors, Gayespur Municipality 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 February 4, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Leave granted to the learned advocate on record of the petitioner to amend the cause title of the writ petition by impleading the Board of Councillors, Gayespur Municipality as party respondent. The formality of serving a copy upon the added respondent stands dispensed with as copy of the writ petition was already served upon the Municipality.

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.)