

Item No. 29

7.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20293 of 2022
Sree Sree Ishwar Hari Narayan Jew Thakur & Ors.
v.
The Burdwan Municipality & Ors.

Mr. Susovan Sengupa
Mr. Debdeep Sinha
... for the petitioner.

Mr. Subhasis Bandopadhyay
... for the Municipality.

The petitioners complain of illegal and unauthorized construction at the instance of the respondent nos. 5 and 6. The petitioners submit that construction was being made over a debottar property without obtaining any sanction plan from the Burdwan Municipality.

It has been submitted that after service of the writ petition a stop work notice has been issued by the Municipality but the proceeding has not been initiated to demolish the unauthorized construction till date.

Learned advocate for the Municipality submits that after receipt of the objection from the petitioners the Municipality issued notice upon the private respondents to stop construction.

None appears on behalf of the respondent nos. 5 and 6 despite service.

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

It appears from the submissions made on behalf of the petitioners and the Municipality that only a notice has been issued upon the private respondents directing them to stop the construction work but no further steps have been taken to deal with the unauthorized construction, if any.

The Municipality is accordingly directed to conduct a spot inspection upon prior notice to the parties to ascertain the allegation of unauthorized construction made by the petitioners.

In the event the Burdwan Municipality 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated August 2, 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

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(Amrita Sinha, J.)