

Item No. 27

13.12.2022  
Ct-24

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

WPA 18555 of 2019  
Mrinal Kanti Bhunia

v.

The State of West Bengal & Ors.

Mr. Saibal Acharya  
Mr. Kallol Kumar Maity  
... for the petitioner.

Mr. Sudipa Ray  
... for the State.

Mr. Koushik Chatterjee  
Mr. Nilanjan Adhikari  
... for the respondent nos. 3 & 4.

Affidavit-of-service filed in Court shows that the copy of the writ petition has not been served upon the respondent no. 6. The envelope addressed to the respondent no. 6 has come back unserved with the postal endorsement “insufficient address.”

The petitioner complains that the representation filed objecting to the unauthorized construction is pending consideration at the end of the Contai Municipality.

In the earlier writ petition filed by the petitioner being WP 25473(W) of 2017, the Court by order dated May 11, 2018, directed the Chairman of the Municipality to consider the representation.

Learned advocate for the Municipality is not aware as to whether the said direction of the Court has been acted upon or not. The petitioner complains that the order of the Court is yet to be implemented.

In view of the order that I propose to pass, no prejudice shall be caused to the non-appearing respondent, if the writ petition is disposed of in the following manner.

The instant writ petition is accordingly disposed of by directing the Board of Councillors, Contai Municipality to take into consideration the objection filed by the petitioner before the Chairman on August 22, 2017 strictly in accordance with law, at the earliest, after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to the parties immediately thereafter. The entire exercise shall be completed positively within a period of eight weeks from the date of communication of a copy of this order.

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 August 22, 2017 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.)**