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17.11.2022
d.p.

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

W.P.A. 20398 of 2022

**Nilima Pal & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Atis Kumar Biswas,
Mr. Amit Singh,
Ms. Jyoti Agarwal.
...For the Petitioners.**

**Mr. Sanjoy Mukherjee.
...For the Respondent No.10.**

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

The petitioners complain of illegal and unauthorized construction at the instance of the respondent No.10.

The specific allegation is that the construction is being made without any sanction and without maintaining the statutory side open spaces.

The petitioners lodged a complaint before the Municipality and submits that the same has not been taken up for consideration till date.

The petitioners refer to a communication dated 29th December, 2021 issued by the Chairperson, Board of Administrators, Bishnupur Municipality with regard

to an enquiry regarding demarcation of plot and unauthorized construction.

It is the specific case of the petitioners that there is no issue with regard to demarcation of the plot in question.

Learned advocate appearing for the respondent No. 10 denies the allegation of the petitioners.

It has been submitted that construction has been made in accordance with the Pradhan Mantri Awas Yojana and funds have been allotted under the scheme for raising the construction work.

The respondent No.10 does not have any issue with regard to demarcation of the plot of land.

It appears from the submissions made on behalf of both the parties that the only issue is with regard to making construction without maintaining the statutory side open spaces. The objection filed by the petitioners is pending consideration at the end of the Municipality. Accordingly, no useful purpose will be served by keeping the writ petition pending.

The writ petition is disposed of by directing the respondent no.8 being the Bishnupur 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 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 petitioners 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 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 petitioner is directed to forward a copy of the representation dated 11th August, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The statement of allotment of funds in favour of the private respondent is taken on records.

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.)