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20.09.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 21304 of 2021

**Sushil Kumar Chakraborty
-versus
The State of West Bengal & Ors.**

**Mr. Amitabha Ghosh.
...For the Petitioner.**

**Ms Anwari Quraishi,
Ms. Zainab Tahir.
...For the State.**

**Mr. Triptimoy Talukder,
Mr. Diptomoy Talukder,
Mr. Abhiraj Tarafdar.
...For the Respondent No.3.**

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

None appears on behalf of the respondent Nos. 6, 7 8 and 9 in spite of service.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent Nos. 6, 7, 8 and 9.

The grievance of the petitioner is that the construction is being made in such a manner that the safety of the structure of the petitioner's premises is in question. The mandatory side open spaces have not

been maintained by the person responsible at the time of making construction.

The petitioner's objection filed before the Konnogor Municipality in November 2021 has not been considered till date.

Learned advocate appearing for the Konnogor Municipality submits, upon instructions, that though the construction is going on but the Municipality is yet to ascertain as to whether the said construction is in accordance with any plan sanctioned by the Municipality or not.

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 of Konnogor 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.

A spot inspection shall be conducted by the Municipality within 30th September, 2022 upon prior notice to the petitioner as well as the person(s) responsible for making construction.

If at the time of spot inspection it reveals that the construction is being made either without a sanction plan or in deviation of the plan sanctioned, then necessary stop work notice shall be issued so that the construction may not proceed any further.

The Municipality shall ensure that no construction is being made in deviation or without any plan sanctioned by the Municipality.

The petitioner is directed to forward a copy of the representation dated 29th November, 2021 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.

(Amrita Sinha, J.)