

Sl. No.9
18.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20776 of 2022

Rezia Bibi & Anr.

v.

The State of West Bengal & Ors.

Mr. Younush Mondal

... for the petitioners.

Mr. Sankar Ghosh

Mr. Suprio Roy Chowdhury

... for the respondent nos.3 & 4/
Barasat Municipality

Mr. Dwarika Nath Mukherjee

Mr. Manik Lal De

... for the State.

Dr. R. P. Motilal

Mr. Pabitra Biswas

... for the respondent no.7

The petitioners allege illegal and unauthorised construction at the instance of the respondent no.7.

The petitioners, with similar allegation, approached this Court on an earlier occasion by filing writ petition being WPA 3452 of 2020. The said writ petition stood disposed of by this Court after hearing all the parties on 25th November, 2021. The Court directed that if the petitioners raise any dispute by specifically mentioning the nature of unauthorised construction before the Municipality, then the objection of the petitioners shall be disposed of in accordance with law after hearing all the parties including the occupants of the building.

Representation was filed by the petitioners before the Municipality in July, 2022. The petitioner alleges that same has not been taken up for consideration till date.

Learned advocate representing the private respondent submits that the construction alleged to be unauthorised has already been regularised by the Municipality and completion certificate has been issued.

Learned advocate representing the Municipality submits that the notice of hearing has been given to the petitioners as well as the private respondent but the notice is yet to be served upon the occupants of the building.

As it appears that the petitioner has already submitted objection and the same is pending consideration at the end of the Municipality, accordingly, the Municipality is directed to take into consideration the objection filed by the petitioners by letter dated 15th July, 2022 strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

A reasonable opportunity of hearing be granted to the petitioners, the respondent no.7, Abdul Khalekh and other occupants of the building. A reasoned order shall be passed and communicated to all the parties 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 unauthorised 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 petitioner.

The petitioners are directed to forward a copy of the representation dated 15th July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)