

Sl. No.12
18.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 21010 of 2022

Sk. Enaytullah

v.

The State of West Bengal & Ors.

Mr. Md. Shamim Halder

... for the petitioner.

Mr. Jayanta Narayan Mohanty

... for the Maheshtala Municipality

The petitioner alleges illegal and unauthorised construction at the instance of the respondent nos.6, 7 & 9. The objection filed by the petitioner is pending consideration before the Maheshtala Municipality.

It appears that on receipt of the complaint from the petitioner, the Sub Assistant Engineer-in-Charge, Building Department, Maheshtala Municipality by a notice dated 16th August, 2022 directed the persons responsible to stop construction work and attend before the Sub Assistant Engineer, Building Section, along with the records, deeds and other papers within two days from the date of receipt of the notice.

The petitioner submits that despite stop work notice issued, the private respondents are continuing with the construction work.

None appears on behalf of the private respondents.

Affidavit of service filed in Court is taken on records. It appears therefrom that two of the private

respondents have refused to accept service of the notice of upgradation.

Learned advocate for the Maheshtala Municipality is not ready with proper instruction in the matter.

In view of the order that I propose to pass no useful purpose would be served by keeping the writ petition pending and none of the parties will be prejudiced, if the writ petition is disposed in the following manner.

The writ petition is accordingly disposed of by directing the respondent no.2 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 12 weeks 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 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 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 16th August, 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.)