

Item No. 59

20.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 21347 of 2022
Saurav Mukherjee
v.
The State of West Bengal & Ors.

Mr. Debanik Banerjee
Mr. Steven Sourodip Biswas
... for the petitioner.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
... for KMC.

Ms. Sipra Majumdar
Ms. Sangeeta Roy
... for the State.

Mr. Probal Kumar Mukherjee, Sr. Adv.
Ms. Shebatee Datta
... for the respondent no. 8.

The petitioner complains of unauthorized construction at the instance of the private respondent in the south-western side of the Kolkata Municipal Corporation Premises No. 28, Banamali Naskar Road, Behala, Kolkata-700 060, mailing address 31, Banamali Naskar Road, Behala, Kolkata- 700 060, P.S.-Parnasree, Ward No. 131, Borough-XIV under the jurisdiction of the Kolkata Municipal Corporation.

The specific allegation of the petitioner is that construction has been made without maintaining the statutory side open spaces.

The petitioner complains that the representation filed before the Kolkata Municipal Corporation has not been taken up for consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner.

It has been submitted that construction has been made strictly in accordance with the plan sanctioned by keeping the statutory side open spaces.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive any instruction in the matter.

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 respondent no. 5, being the Executive Engineer, Borough-XIV 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.

The petitioner is directed to forward a copy of the representation posted on August 18, 2022 appearing at pages 25 and 26 of the writ petition to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service and the supplementary affidavit filed in Court today are 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.)