

21.12.2022
Court No.24
Item No.54
AP

WPA 21493 of 2022

**Sri Ashok Kumar Tiwari
Vs.
The State of West Bengal and Ors.**

Mr. Sanjib Seth

... For the Petitioner.

Mr. Dwarika Nath Mukherjee
Mr. Janardan Mandal

... For the State.

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit Sureka

... For the Howrah Municipal Corporation.

The petitioner alleges illegal and unauthorized construction made by the private respondents on holding No.19, P.M. Bustee 4th Bye Lane, Police Station - Shibpur, District - Howrah under the jurisdiction of the Howrah Municipal Corporation.

The petitioner complains that the objection filed before the Howrah Municipal Corporation on 12th August, 2022 has not been taken up for consideration till date.

The affidavit of service filed in Court does not bear proof of service upon the respondent Nos.8 and 9. The respondent No.7 has been served and the respondent No.10 refused to accept the service.

In view of the order that I propose to pass, none of the non-appearing respondents would be prejudiced if the writ petition is disposed of in the following manner.

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. 2, Howrah Municipal Corporation 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 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 petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representations of the petitioner.

The petitioner is directed to forward a copy of the representations dated 12th August 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)