

23.12.2022
Court No.24
Item No.33
AP

WPA 22188 of 2022

**Sonali Poddar
Vs.
The State of West Bengal and Ors.**

Ms. Rama Haldar
Ms. Diya Dutta

... For the Petitioner.

Mr. Rajarshi Basu
Mr. S.T. Mina

... For the State.

Mr. Biswajit Mukherjee
Ms. Sima Chakraborty

... For the KMC.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondent. The petitioner restricts the prayer of the petition with regard to demolition of the illegal and unauthorized construction.

It has been submitted that the objection filed challenging such unauthorized construction is pending consideration before the respondent authority.

None appears on behalf of the private respondent despite service. Affidavit of service filed in Court is taken on record.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation is yet to receive any instruction with regard to the allegation of unauthorized construction.

In view of the order that I propose to pass none of the non-appearing respondents will 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 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 dated 5th September, 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.)