

21.11.2022
19
AN/Ct. No.24

WPA 22280 of 2022

**Sri Chandan Kumar
versus
The State of West Bengal & Ors.**

Mr. Partha Sarathi Maitra
Mr. Chandradoy Roy

... for the petitioner

Mr. Arijit Dey

... for Baranagar
Municipality

Mr. Shaunak Ghosh
Mr. Rakesh Sarkar
Mr. Biswaroop Ghosh

... for respondent no. 6 to 10

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

... for the State

Leave is granted to the learned counsel representing the petitioner to implead Baranagar Municipality and the Board of Councillors of Baranagar Municipality as respondents in the present writ petition. The formality of serving the copy of the writ petition upon the added respondents stands dispensed with as learned advocate has already entered appearance on behalf of the Chairperson of the Municipality.

The petitioner alleges illegal and unauthorized construction at the instance of respondent nos. 6 to 10. The petitioner complains that the objection filed on

12.09.2022 alleging unauthorized construction has not been taken up for consideration till date.

Learned counsel representing the private respondents submits that certain deviation has been made at the time of making construction and a prayer for regularizing the same is pending consideration before the Municipality.

Learned counsel representing the Municipality submits, upon instruction that, the site was inspected and deviation has been found. Stop work notice has been issued and proceeding will be initiated to deal with the unauthorized construction.

As it appears from the submissions made on behalf of the parties that the Municipality is aware of the complaint filed by the petitioner and has acted in response to the same and caused a spot inspection and proceeding to deal with unauthorized construction is contemplated, accordingly, the writ petition is disposed of by directing the Board of Councillors of Baranagar Municipality to consider and deal with 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 12.09.2022 to the aforesaid respondent at the time of communicating the order of the Court.

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.)