

Sl. No.25
28.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 22428 of 2022

Smt. Jaya Roy & Ors.
Versus
South Dum Dum Municipality & Ors.

Mr. Ayan Banerjee
Ms. Debjani Sengupta

... for the petitioners

Mr. Amalesh Ray
Ms. Mousumi Bhowal
Mr. Aman Gupta
Mr. Ishan Bhattacharjee

... for the South Dum Dum Municipality

The petitioners complain of illegal and unauthorised construction at the instance of the respondent no.6. It is the specific contention of the petitioners that the mandatory side open spaces have not been maintained by the private respondents at the time of making construction. The height of the building has been raised beyond the permissible limit.

The petitioners complain that several representations were filed objecting to the unauthorised construction but none have been taken up for consideration till date.

None appears on behalf of the private respondents despite service.

Affidavit of service filed in Court is taken on record.

Learned advocate representing the South Dum Dum Municipality is yet to receive instruction in the matter.

As it appears that the representation of the petitioners 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 petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 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 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 petitioners 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 20th September, 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.)