

23.12.2022
Court No.24
Item No.36
AP

WPA 22534 of 2022

**Sri Jai Prakash Sinha
Vs.
The State of West Bengal and Ors.**

Mr. Manik Lal Poddar

... For the Petitioner.

The petitioner complains of illegal and unauthorized construction at premises No. D-143, Dakshinee Co-operative Housing Society Limited, Ward No.57, Borough – 7 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner complains that the private respondent, who is the developer of the property made construction in deviation of the plan sanctioned and also constructed additional floor without obtaining any sanction from the Kolkata Municipal Corporation.

It has been submitted that the objection filed against such unauthorized construction has not been taken up for consideration till date.

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

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.3, the Municipal Commissioner 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 12th 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.)