

28.11.2022
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W.P.A 22923 of 2022

Irani Bhakat
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Chandrachur Chatterjee

....for the Petitioner

Mr. Sudhakar Thakur
Mr. Badal Singh
Mr. Brijesh Giri

.....for the respondent no. 6

The petitioner alleges illegally an unauthorised construction in the common area of the premises no. 4, 5 and 6 Madan Mohan Dutta Lane, Kolkata -700 006, Borough-II of the Kolkata Municipal Corporation.

According to the petitioner, the private respondent has made illegal construction in a manner that her right to free ingress and egress to her property has been blocked.

The petitioners complain that the representation dated 4th March, 2022 filed before the respondent authority has not been taken up for consideration.

Learned Advocate representing the private respondent denies the contention of the petitioner.

It has been submitted that the construction in question exists for a long period of time and no unauthorised construction has been made at the instance of the private respondent.

None appears on behalf of the Kolkata Municipal Corporation despite service.

Affidavit of Service filed in Court is kept with the record.

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.4 being the Executive Engineer (Civil), Borough-II, Building Department 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 4th March, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

W.P.A 22923 of 2022 is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha,J.)