

Item No. 32

23.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23920 of 2022
Smt. Chandana Chatterjee
-vs.-
The State of West Bengal & Ors.

Mr. Debanik Banerjee
Mr. Anish Kumar Mukherjee
Mr. Wrickbrata Roy
... for the petitioner.

Mr. Nilanjan Adhikari
... for the respondent nos. 7 & 8.

Mr. Jajarlal De
Mr. Shamim ul Bari
... for the State.

Mr. N.C. Bihani
Ms. Papiya Banerjee Bihani
Mr. Soumyajit Ghosh
... for the South Dum Dum Municipality.

The petitioner alleges illegal and unauthorized construction at the instance of the private respondents.

It has been submitted that an additional floor has been constructed by the private respondents without any sanction from the South Dum Dum Municipality.

The representation filed by the petitioner before the Municipality on August 29, 2022 is yet to be considered.

Learned advocate representing the private respondents submits, upon instruction that, the application praying for sanction of revised building plan is pending consideration at the end of the Municipality.

None of the parties are aware as to whether the revised building plan has been sanctioned or not. Till the Municipality sanctions the revised building plan and permits construction of additional floor, the persons responsible cannot make any construction beyond the sanctioned plan and raise extra floor.

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 August 29, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

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(Amrita Sinha, J.)