

Item No.19.
02.12.2022
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Ct. 24

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 24712 of 2022

**Shrimati Rajyashree Ghosh
-versus
The Midnapore Municipality & Ors.**

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray
..for the petitioner
Mr. D. K. Adhikary
..for respondent Nos. 4 to 8

Mr. Sourav Mitra
Ms. S. Choudhury
...for respondent No.9

Mr. Sujay Bandyopadhyay
Mr. Shambhu Mahato
....for the Midnapore Municipality

The petitioner alleges illegal and unauthorized construction at the instance of the private respondents on R.S. Plot Nos. 53(F), 54(F), 50/861(F), 54/862(F), 55(P), JL no.187, Mouza-Kamarara at Hatarmath, Midnapore in ward no.08 under Midnapore Municipality.

The petitioner refers to the notice given by the Chairman of the Midnapore Municipality directing the persons responsible to stop the construction work and to appear for hearing on 3rd September, 2022.

It appears from the said notice dated 25th August, 2022 issued by the Chairman of the Municipality that notice of hearing was only given in favour of Anup Maity, respondent No.9. No notice of hearing was served upon the respondent Nos. 4 to 8 who claim to be the owners of the said plot.

The objection filed by the petitioner before the Chairman of the Municipality on 16th September, 2022 is pending consideration.

Learned advocate representing the respondent No.9 denies the allegations of the petitioner. It has been submitted that construction is being made in strict accordance with the plan sanctioned by the Municipality.

Learned advocate representing the respondent Nos. 4 to 8 submits that no opportunity of hearing was given to them. It has also been submitted that all the owners of the plots of land mentioned in the letter of complaint of the petitioner have not been intimated about the hearing.

Learned advocate representing the Municipality submits that steps shall be taken for consideration of the objection filed by the petitioner upon hearing all the parties.

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 being the Board of Councilors, Midnapore Municipality 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 16th September, 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.

(Amrita Sinha, J.)