

Item No.23.
01.12.2022
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Ct. 24

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

W.P.A. 24792 of 2022

**Sri Shital Show
-versus
The Howrah Municipal Corporation & Ors.**

Mr. Samrat Choudhury
Mr. Debarshi Brahma
....for the petitioner

Mr. Sandipan Banerjee
Mr. Sobhan Majumder
Mr. Ankit Sureka
..for Howrah Municipal Corporation

Mr. Nirmalya Dhara
Mr. Kalyan Kumar Panda
..for Respondent No.5

Mr. R. N. Dutta
Mr. Hare Krishna Halder
...for the State

The petitioner alleges illegal and unauthorized construction over land classified as 'Shali'. It has been alleged that construction has been made without obtaining any sanctioned plan. The petitioner complains that objection against such unauthorized construction has not been taken up for consideration till date. Reference has been made to the reply given under the Right to Information Act that no building plan has been sanctioned in respect of the said holding.

Learned advocate representing the private respondent submits that the construction is an old one and the same has been made after the classification of the land was converted from 'Shali' to 'Bastu'.

Learned advocate representing Howrah Municipal Corporation is yet to receive instruction in the matter.

As it appears that the objection filed by the petitioner alleging illegal and unauthorized construction is pending consideration at the end of the Howah Municipal Corporation, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.1 being the Howrah Municipal Corporation 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 21st June, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

The instruction given by the Officer in charge, Liluah P.S. be retained with the record.

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

(Amrita Sinha, J.)