

Item No.28
02.12.2022
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Ct. 24

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

W.P.A. 25243 of 2022

**Sri Dilip Kumar Dutta and Ors.
versus
The Kolkata Municipal Corporation & Ors.**

Mr. Piyush Chaturvedi
Mr. Mir Anowar
..for the petitioners

Mr. Suranjan Mandal
..for the respondent Nos. 5, 6 & 7.

The petitioner alleges illegal and unauthorized construction at the premises No. 34B, Subhash Pally, Ward No.98, Borough-X under the jurisdiction of the Kolkata Municipal Corporation.

According to the petitioners, the respondent nos. 5, 6 and 7 being the owners of the property have authorized the respondent no.8 to make construction over the said plot of land.

It has been submitted that construction is being made without a proper sanctioned plan.

In response to the complaint filed by the petitioners a notice under Section 401 was issued

directing the persons responsible to forthwith spot the construction work.

It has been submitted that since thereafter no steps have been taken by the Corporation to deal with the unauthorized construction.

Learned advocate representing the respondent nos. 5, 6 and 7 is yet to receive any instruction from his clients.

The respondent no. 8 is not represented in Court.

None appears on behalf of the Kolkata Municipal Corporation.

Affidavit of service filed in Court today be taken on record.

In view of the order that I propose to pass, none of the parties would 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 being the Executive Engineer, 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 9th April, 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.)