

Item No. 13

06.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 26330 of 2022
Md. Mohobub Hossain

v.

The State of West Bengal & Ors.

Mr. Uttiya Ray
Mr. Arnab Mandal
... for the petitioner.

Mr. Narayan Chandra Bhattacharyya
Mr. Sujata Ghosh
... for the State respondents.

Mr. Syed Julfikar Ali
... for the respondent nos. 5 & 6.

Mr. Subhasis Bandyopadhyay
... for the Municipality.

The petitioner alleges illegal and unauthorized construction by the respondent nos. 5 & 6.

It has been submitted that the construction has been made at Holding No. 444/1, Bahir Sarbamangala, Batan Para, Ward No. 2 under the Jurisdiction of Burdwan Municipality.

The petitioner submits that construction has been made without a valid sanctioned plan and without maintaining the mandatory side open spaces.

Objection filed by the petitioner before the Burdwan Municipality in December 2020 followed by reminder on September 6, 2022 are pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the present writ petition has been filed as a counter blast to the proceeding initiated at the instance of the private respondents against the present petitioner alleging unauthorized construction wherein order of demolition has been passed.

It has been submitted that the private respondents made construction strictly in accordance with the plan sanctioned and the construction was complete in the year 2009. After 2009 no construction has been made at the said premises.

Learned advocate representing the Municipality is yet to receive any instruction in the matter.

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 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 September 6, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

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.)