

List dt.6.6.22
Item No. 293
27.06.2022
d.p.

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

W.P.A. 10150 of 2020

**Sk. Abdul Rashid & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Md. Sarwar Jahan,
Mr. Anisur Rahaman,
Mr. Maidul Islam Kayal,
Mr. Sumit Naskar.
...For the Petitioners.**

**Mr. Raghunath Chakraborty.
...For the Municipality.**

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

None appears on behalf of the private respondents in spite of service.

The petitioners allege illegal and unauthorized construction by the private respondents in respect of the land at Mouza-Makhalhati, R.S. Khatian No. 45, Plot No. 46, J.L. No. 2 out of which 20 decimals of the aforesaid plot is recorded as tank.

It is the specific contention of the petitioners that construction has been made over a water body without taking necessary sanction and without conversion of the classification of the land in question.

The petitioners made representation before the respondent authorities in November 2020 and allege that the same has not been considered by the respondent authorities till date.

Learned advocate appearing for the Maheshtala Municipality submits that there is a private dispute in between the parties.

It has further been submitted that as the land in question is a water body, the presence of the Block Land and Land Reforms Officer is required.

As it appears that the representation of the petitioners 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.9 being the Maheshtala Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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 petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The Mahestala Municipality, if required, may take assistance of the Block Land and Land Reforms Officer to ascertain the classification of the land in question.

The petitioners are directed to forward a copy of the representation filed in November 2020 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.)