

ORDER SHEET

WPO 2370 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANKAR DAS
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 1st August, 2022

Mr. Arif Ali, Mr. Sarban Bhattacharjee, Mr. Swapan
Chakraborty, Advocates for the petitioner.

Mr. Gopal Chandra Das, Ms. Tanushree Dasgupta, Advocates for K.M.C.

The Court : The petitioner alleges illegal and unauthorised construction being made in the municipal premises no. 724, Baghajatin, presently renumbered as 17, Baghajatin, SPD Block, Post Office – Baghajatin, Police Station – Patuli, Kolkata – 700 086, Ward No.101, Borough-XII under the jurisdiction of the Kolkata Municipal Corporation.

It is the specific contention of the petitioner that construction is being made without leaving the mandatory statutory side open spaces. The unauthorised construction, according to the petitioner, is at the instance of the respondent nos.12 to 21.

Though the affidavit of service does not make it clear that all the private respondents have been served, but in view of the order that I propose to pass, none of the parties will be prejudiced. No useful purpose will be served by keeping the writ petition pending.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer, Building Department, Borough-XII, being the respondent no.7, to consider and decide the representation filed by the petitioner on 23rd June, 2022, strictly in accordance with law, after giving reasonable opportunity of hearing to the petitioner and all other necessary parties, at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order. The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the representation filed by the petitioner.

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 unauthorised 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.

Learned Advocate for the petitioner is directed to forward a copy of the representation dated 23rd June, 2022 to the aforesaid respondent at the time of communicating the order of this 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.)