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20.03.2023
d.p.

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

W.P.A 80 of 2023

**Ashok Bhar
-versus
The State of West Bengal & Ors.**

**Ms. Pampa Dey (Dhabal).
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Santanu Chatterjee.
...For HMC.**

**Mr. Manas Kundu,
Md. Mansoor Alam.
...For the State.**

**Ms. Shebatee Datta,
Ms. Poulami Roy.
...For the Private Respondents.**

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

The allegation of the petitioner is that the private respondents are raising construction at 13, Belilious Road, P.S. and District-Howrah without a proper sanction plan.

The petitioner alleges that the complaint lodged before the Howrah Municipal Corporation in December 2022 is pending consideration till date.

Learned advocate appearing for the private respondents submits, upon instructions, that construction is being made strictly in accordance with the plan sanctioned by the Howrah Municipal Corporation.

It has been submitted that a title suit is pending consideration in respect of the selfsame property and being unsuccessful to obtain an order of stay from the court below, the petitioner approached this Court by filing the present writ petition.

Learned advocate appearing for the Howrah Municipal Corporation is yet to receive 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.2 being the Commissioner, Howrah Municipal Corporation or his delegate 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 1st December, 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.)