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05.01.2023
d.p.

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

W.P.A. 172 of 2023

**Shipra Lodh & Ors.
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Jagabandhu Roy,
Mr. Rudranil De,
Mr. Santimoy Bhattacharya,
Mr. H.K. Mahata.
...For the Petitioners.**

**Mr. Srijan Nayak,
Ms. Rituparna Maitra.
...For KMC.**

**Mr. Wasim Ahmed,
Sk. Md. Masud.
...For the State.**

**Mr. Arindam Banerjee,
Mr. Nikunj Berlia.
...For the Respondent
Nos. 8 to 12.**

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

The petitioners are aggrieved by the construction made by the private respondents at the adjacent premises being 81, Nimtala Ghat Street.

The primary contention of the petitioners is that the construction is being made without maintaining the mandatory side open spaces and in such a manner that the right to free ingress and egress to the petitioners' land is being blocked.

The objection filed by the petitioners before the different authorities of the Kolkata Municipal Corporation is yet to be considered.

Learned advocate appearing for the private respondents denies the allegations of the petitioners.

It has been submitted that construction is being made in accordance with the plan sanctioned by the Corporation.

Learned advocate appearing for the Corporation is yet to receive any instruction in the matter.

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.6 being the Executive Engineer, Building Department, Borough-II 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 petitioners are directed to forward a copy of the representation dated 27th 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.)