

20-02-2023
Item No.46
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.265 of 2022
Smt. Bandana Saha

-vs-

The Chairman, South Dumdum Municipality & Ors.

Mr. Sujit Bhunia	
Mr. Bhaskar Hutait	...for the petitioner
Ms. Mousumi Bhowal	...for the municipality

The petitioner in this writ petition alleges illegal and unauthorised construction at the instance of the private respondents, and objection filed with regard to this is yet to be disposed of.

Affidavit of service is taken on record. However, none represents the private respondents.

As it appears that the representation of the petitioner (Annexure P2, p.41) objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities and in view of the order proposed to be passed, none of the non-appearing respondents will be prejudiced, the writ petition is disposed of in the following manner.

The writ petition is accordingly disposed of by directing the tenth respondent being South Dumdum Municipality to consider and dispose of the petitioner's representation strictly in accordance with law by passing a reasoned order, 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 reasoned decision once passed shall

be communicated to all the parties, including the petitioner forthwith.

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 of the sanctioned 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 the 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 of 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 15, 2021 to the aforesaid respondent at the time of communicating the order of the court.

The writ petition stands disposed of.

Certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

[Amrita Sinha, J.]

