

Item No 29.03
22 2023
Ct No 24
AGM

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

WPA 656 of 2023

**Aminuddin Ansari
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Sabyasachi Mukherjee,
Mr. Bibek Dey,
Mr. Mukesh Khanna,
Syed Neaz Ahmed, ... For the petitioner.

Mr. Kallol Guha Thakurata,
Md. Wasim Rahaman,
... For the respondent no. 3.

Mr. Arindam Sen,
Mr. Sandeep Prasad Shaw,
Mr. Sagnik Bhattacharya,
... for the Private respondent No. 6 and 7.

Mr. Srijan Nayak,
Mr. Dwijadas Chakraborty, ... for the KMC.

Mr. Susovan Sengupta,
Ms. Sujata Ghosh, ... For the State.

Leave is granted to the learned advocate-on-record to the petitioner to correct the description of the respondent No. 4 in the cause title of the writ petition by tomorrow (30.03.2023).

The petitioner complains of illegal and unauthorised construction at the instance of the private respondent.

The allegation of the petitioner is that construction is being made at premises no. B-40/1, Iron Gate Road, P.O & P.S. - Garden Reach, Kolkata – 700 024, Ward No. 135, Borough – XV under jurisdiction of KMC.

The complaint lodged before the Executive Engineer

(Building) of the concerned borough is yet to be disposed of.

The learned advocates representing the private respondent nos. 3, 6 and 7 submit that the petitioner and the private respondents are related to each other. The petitioner consented to the construction of the building and, as such, he ought not to have raise any objection at the time of making construction.

Learned advocate representing the Corporation is yet to receive instruction whether the construction in question is unauthorized or not.

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. 4 being the Executive Engineer, Civil/(Building), Borough- XV 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 learned advocate for the petitioner is directed to forward a copy of the representation dated 16th June, 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.)