

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

W.P.A 898 of 2023

**Rabindra Nath Khan
-versus
Sujoy Chakraborty & Ors.**

**Mr. Ram Krishna Chandra
...For the Petitioner.**

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

Leave is granted to the learned advocate on record to the petitioner to correct the designation of the respondent no. 3 in the cause title of the writ petition.

Supplementary affidavit filed today in Court today be taken in record.

The petitioner claims to be a senior citizen.

He alleges illegal and unauthorised construction being made at the behest of the private respondent at premises no. 18/2/2, Umesh Banerjee Lane, Shibpur, Howrah. Complaint was lodged before the HMC.

It has been submitted that the property in question is a thika property and construction is going on without obtaining any complaint from any authority.

The petitioner was directed to attend the hearing on 19th January, 2023 in the office of the Assistant Engineer, Borough-4.

The petitioner submits that the HMC is not taking any steps against the unauthorised construction that is being made.

The private respondent has assaulted the petitioner and threatened him with dire consequences if he proceeds any further with his allegation of unauthorised construction.

The petitioner lodged complaint before the Police Station but no steps have been taken by the police till date.

Learned advocate representing the HMC 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 Assistant Engineer, Borough - 4 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 20th 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.)