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27.03.2023
d.p.

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

W.P.A 998 of 2023

**Shyamal Halder
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Debanik Banerjee,
Mr. Ashik Hossain,
Mr. Prasenjit Saha.
...For the Petitioner.**

**Mr. Ranajit Chatterjee,
Mr. Ziaur Rahman.
...For KMC.**

**Mr. Srinath Singha Roy.
...For the State.**

**Mr. Soumya Ray,
Mr. Suman Majumder.
...For the Respondent No.9.**

The petitioner complains of illegal and unauthorized construction at B/6/H/6, Ramdhan Khan Lane, P.S.-JavaBean, Kolkata-700005 under Borough-1 of the Kolkata Municipal Corporation.

The representation filed before the Kolkata Municipal Corporation is alleged to be kept pending till date.

Learned advocate appearing for the private respondent denies the allegation of the petitioner. It has been submitted that the structure in question is in

existence for a pretty long period of time and no unauthorized construction has been made.

Learned advocate appearing for the Kolkata Municipal Corporation submits a report mentioning that an inspection was conducted to ascertain the veracity of the allegation.

From the said report it is not very clear as to whether the inspection was conducted upon prior notice to all the parties.

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.6 being the Executive Engineer (Civil), Building Department 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 8th July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Jorabagan Police Station is taken on record.

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.)