

Item No.46

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.06.2023
Ct-24

WPA 1016 of 2023
Samir Biswas

v.

The State of West Bengal & Ors.

Mr. Debashis Saha
... for the petitioner.

Mr. Fazlul Haque
Mr. Dwijadas Chakraborty
... for KMC.

Mr. Wasim Ahmed
Sk. Md. Masud
... for the State.

The petitioner complains of illegal and unauthorized construction at premises no. V-90A, S.A. Farooqui Road, P.S. Rajabagan, Ward No. 139, Borough-XV under the jurisdiction of the Kolkata Municipal Corporation. The petitioner submits that the construction is being made without obtaining any sanctioned building plan.

The petitioner further submits that he is not aware as to who is responsible for making such unauthorized construction. Objection was filed by the petitioner before the Corporation in November 2022. The same is yet to be disposed of.

Learned advocate representing the Kolkata Municipal Corporation 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 respondent no.6 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 November 14, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)