

ML 275
03.02.2023
d.p.

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

W.P.A 982 of 2022

**Apurba Rana
-versus
The Municipal Commissioner, Kolkata
Municipal Corporation & Ors.**

**Ms. Sima Chakraborty.
...For KMC.**

None appears on behalf of the petitioner at the time of call.

From the averments made in the writ petition and the documents annexed thereto it appears that, the petitioner complains of unauthorized construction at the instance of the private respondents at premises no. B/16/H/10, Haralal Mitra, Ward No.- 07, Borough – I of the Kolkata Municipal Corporation.

The objection filed before the Municipal Authority is pending consideration till date.

Learned advocate appearing for the Kolkata Municipal Corporation is yet to receive proper instruction in the matter.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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.3 being the Executive Engineer, 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 14th September, 2021 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.)