

Item No.48

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.06.2023
Ct-24

WPA 1955 of 2023
Sabitri Saha @ Sabitri Bala Saha
v.
The State of West Bengal & Ors.

Mr. Bibek Chatterjee
Ms. Paramita Sahu
Mr. Tanmoy Chakraborty
Mr. Sourav Dutta
Ms. Susmita Saha
Ms. Mahasweta Mukherjee
... for the petitioner.

Mr. Rama Prasad Sarkar
Ms. Anita Deb Jana
... for the State.

The petitioner complains that the private respondents are raising construction without obtaining any sanctioned plan. Complaint filed before the Basirhat Municipality is pending consideration.

None represents the Municipality or the private respondents.

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

From the documents annexed to the writ petition it appears that a civil suit is pending consideration in respect of the selfsame property and an order of injunction has been passed directing the parties to maintain status quo with regard to the nature, character and possession of the suit property.

In the absence of any representation on behalf of the Municipality it will not be possible for this Court to decide the issue conclusively.

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. 2, Basirhat Municipality 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 sanctioned 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 January 6, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Report filed by the police 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.)