

Item No.52

26.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 2141 of 2023
Smt. Sima Ray
v.
The State of West Bengal & Ors.
with
CAN 1 of 2023

Mr. Sukdeb Sarkar
... for the petitioner.

Mr. Anand Farmania
Ms. Indumouli Banerjee
... for the State.

The petitioner complains that the private respondent is raising construction without any sanctioned plan. In support of the submission the petitioner relies upon the communication made by the Chairman of Gobardanga Municipality on December 13, 2022 that no plan has been sanctioned for raising construction over JL No. 161, L.R. Plot No. 228/1600 under Ward No. 4 of the Municipality.

The complaint lodged against such unauthorized construction is pending consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that there is a civil dispute pending in between the parties. The present writ petition has been filed for taking revenge against the private respondent.

Learned advocate for the private respondent submits that the construction has been made in accordance with the plan sanctioned by the Municipality.

None represents the Gobardanga Municipality.

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

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. 8 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 petitioners 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 learned advocate for the petitioner is directed to forward the copy of the representation dated December 22, 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.

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(Amrita Sinha, J.)