

Item No.16

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

05.04.2023
Ct-24

WPA 2225 of 2023
Kartick Chandra Paul
v.
The State of West Bengal & Ors.

Mr. Arup Kumar Das
Mr. Sanjay Ghosh
... for the petitioner.

Mr. Arun Shaw
Mr. Subhadip Paramanik
... for the respondent nos. 5 & 6.

Mr. Moloy Singh
Mr. Bibekananda Tripathy
... for the State.

Mr. Subhasis Bandopadhyay
...for Burdwan Municipality.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents over holding no. 1, Ward No. 28 comprised in R.S. Plot Nos. 2574 and 2575, corresponding to L.R. Plot No. 3436, under L.R. Khatian No. 1405, situated at J.L. No. 30, Mahalla Bakshi Ram Marwari Lane under Mouza-Bardhaman, P.O. & P.S.-Burdwan, District-Purba Bardhaman-731204 under the jurisdiction of the Burdwan Municipality.

The petitioner complains that the objection filed against such unauthorized construction has not been considered till date.

Learned advocate representing the private respondents denies the allegation of the petitioner.

Learned advocate representing the Municipality is yet to receive any written instruction from his clients.

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. 4 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 11, 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.)