

Item No.17

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

05.04.2023
Ct-24

WPA 2376 of 2023
Kanan Das
v.
South Dum Dum Municipality & Ors.

Mr. A. Khan
Mr. Prosenjit Roy
... for the petitioner.

Mr. N.C. Bihani
Mr. Soumyajit Ghosh
... for the Municipality.

None appears on behalf of the respondent no. 7
despite service.

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

The petitioner complains that the respondent no. 7
has made construction in deviation of the plan
sanctioned by the South Dum Dum Municipality.
Objection was filed before the Municipality in June 2022
but the same has not been considered till date.

Learned advocate representing the Municipality 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. 3, the Board of Councillors, South Dum Dum 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.

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 June 24, 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.)