

Item No.61

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

14.06.2023
Ct-24

WPA 2871 of 2023
Ritashis Bhowmik

v.

The State of West Bengal & Ors.

Mr. Mukteswar Maity
Ms. Nupur Chaudhuri
... for the petitioner.

Md. Mansoor Alam
... for the State.

Mr. Sujay Bandyopadhyay
Mr. Shambhu Mahato
... for the Municipality.

Leave is granted to the learned advocate-on-record of the petitioner to implead the Medinipur Municipality and the Board of Councillors, Medinipur Municipality as party respondents in the instant writ petition.

The formality of serving a copy of the writ petition upon the added respondents stands dispensed with as learned advocate has already entered appearance on behalf of the Medinipur Municipality.

None appears on behalf of the private respondents.

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

The petitioner complains of illegal and unauthorized construction over Plot No. 939, Mouza-

Manikpur, J.L. No. 184 classified as water body at the behest of the private respondents.

Reference has been made to an enquiry report filed by the Assistant Director of Fisheries wherein it has been specifically mentioned that Plot No. 939 is a water body. In the south-west corner of the water body a construction has been made.

The petitioner filed objection before the Medinipur Municipality seeking demolition of the unauthorized construction. The same is yet to be acted upon.

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 Board of Councillors, Medinipur 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

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 legal representation dated May 29, 2022 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.)