

Item No.62

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

14.06.2023
Ct-24

WPA 2947 of 2023
Surender Pal Singh

v.

The Kolkata Municipal Corporation & Ors.

Mr. Francis Samson Correa

Mr. Sunny Nandy

Mr. Subha Pathak

Ms. Sneha Singh

... for the petitioner.

Mr. Wasim Ahmed

Sk. Md. Masud

... for the State.

Mr. Alak Kumar Ghosh

... for the private respondents.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents by not maintaining the side open spaces and by using the ground water for making construction at Premises No. 141, Moulana Abul Kalam Azad Sarani, Kolkata-700011, P.S.-Narkeldanga, Ward No. 30, Borough-III under the jurisdiction of the Kolkata Municipal Corporation.

Specific contention is that the mandatory side open spaces have been infringed at the time of making construction. The private respondents are using the ground water for making the construction.

Learned advocate representing the private respondents denies the allegation made on behalf of the

petitioner. It has been submitted that plan has been sanctioned only in November 2022 and presently the piling work is going on. The construction is yet to start.

It has further been submitted that the submersible pump, if any, has already been removed.

None represents the Kolkata Municipal Corporation.

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.5, the Executive Engineer (Civil), Building Department, Borough III 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 representation dated January 18, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The aforesaid respondent shall cause a spot inspection upon prior notice to all the parties.

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.)