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14.06.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 3060 of 2023

**Anath Bandhu Bhuinya
-versus
The State of West Bengal & Ors.**

**Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee,
Mr. Devdutta Pathak,
Mr. Sandip Kundu.
...For the Petitioner.**

**Mr. Avishek Prasad.
...For the State.**

**Mr. Sounak Bera.
...For the Respondent No.6.**

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

None appears on behalf of the Ghatal Municipality.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent over L.R. Plot No. 1907, Mouza-Kushpata Gobindapur, J.L. No.-145, District-Paschim Medinipur under the jurisdiction of Ghatal Municipality.

Specific contention is that the easementary rights of the petitioner are being infringed. The private

respondent at the time of making construction is not maintaining the mandatory side open spaces.

Objection filed against such unauthorized construction is pending consideration.

Learned advocate appearing for the private respondent denies the allegation of the petitioner.

It has been submitted that construction is being made in accordance with the plan sanctioned.

In the absence of the Municipality, it is not possible for the Court to decide the issue conclusively.

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 being the Board of Councillors, Ghatal 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 representation dated 24th January, 2023 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.

(Amrita Sinha, J.)