

04.04.2023
Item No. 08
Court No. 24
AGM

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

WPA 2317 of 2020

**Pradip Panda & Anr.
Vs
State of West Bengal & Ors.**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. D. Ganguly,
Mr. Kaustav Bhattacharyal
... For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Sobhan Majumdar,
... For the Howrah Municipal Corporation.**

**Mr. Ziaul Islam,
Mr. A. H. Molla,
... for the State.**

**Mr. Ayan Banerjee,
Ms. Debashree Dhamali,
... For the Bally Municipality.**

The petitioner complains of illegal and unauthorised construction at the instance of the respondent nos. 8 to 10 at premises no. 41/3, Santiram Rasta, P.O.& P.S. Bally, District-Howrah, under jurisdiction of Bally Municipality.

Specific allegation is that construction has been made without maintaining the mandatory side open spaces.

The property in question was previously under the jurisdiction of Howrah Municipal Corporation. The petitioner approached the Court on an earlier occasion and the Court directed the Howrah Municipal Corporation to dispose of the

objection filed by the petitioner in accordance with the law.

As the property in question is presently under the jurisdiction of Bally Municipality, the petitioner seeks for a direction upon the Bally Municipality to consider the prayer.

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 Bally Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioners 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 petitioners 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

petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward a copy of the representation dated 23rd March, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Let a photocopy of the representation dated 23.03.2023 be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)