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Ct No 2023
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AGM

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

WPA 3193 of 2023

**Alamgir Thander @ David Badsha
Vs
The State of West Bengal & Ors.**

Mr. Mohinoor Rahaman
Sk. Abumusa

... For the petitioner.

Mr. Raghunath Chakraborty
Mr. M. Ahmed

... For the Maheshtala Municipality.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

... For the State.

The petitioner complains of illegal and unauthorised construction at the instance of the respondent no. 6.

The petitioner has averred in paragraph 2 of the writ petition that “the private respondent with his associates without sanction plan is making illegal construction”. Photograph of the construction has been annexed at page 14 of the writ petition.

Objection has been made before the Chairman of Maheshtala Municipality in June 2022 complaining of such unauthorised construction, but the same has not been considered till date.

Learned advocate representing the private respondent submits, upon instruction that, the construction was made prior to the land in question being made a part of the Maheshtala Municipality and when the

area was within the panchayat jurisdiction. By now the construction is nearly thirty years old.

Learned advocate further submits that the instant writ petition has been filed out of spite and vengeance as the private respondent was compelled to approach this Court against the petitioner alleging unauthorised construction by filing writ petition being WPA 8731 of 2021 (Haji Soliaman Gazi –Vs- State of West Bengal & Ors.) which stood disposed on March 8, 2022 by directing the Municipality to take steps against the unauthorised construction made at the instance of the petitioner herein.

In compliance with the aforesaid direction, the petitioner is presently facing an order of demolition passed by the Maheshtala Municipality.

The learned advocate representing the Municipality is yet to receive instruction in the matter.

It appears from the submissions made on behalf of the parties, the averments made in the writ petition and the photographs attached thereto that the construction which is a G+1 storied building is not a new one. The same is in place for quite sometime. Submission of the petitioner that the construction is in process is absolutely false and incorrect.

The petitioner did not raise any objection when the construction was initiated or prior to its completion. Only after an order was passed against the petitioner by this Court, did the petitioner lodge a complaint before the Municipality in June 2022 and thereafter filed the writ petition seeking relief.

The conduct of the petitioner does not impress the Court at all to pass any order in his favour. The writ petition has clearly been filed with a mala fide intension to take revenge against the private respondent. The Court is not inclined to encourage such practice, and on the contrary, deprecates the same.

The writ petition stands dismissed.

Report filed by the Inspector-in-charge, Rabindranagar P.S. dated 17.02.2023 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.)