

Item No. 10

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.04.2023
Ct-24

WPA 4212 of 2023
Abhrajit Roy Chowdhury
v.
Kolkata Municipal Corporation & Ors.

Mr. Neil Basu
Mr. Sankha Biswas
... for the petitioner.

Mr. Himadri Sikhar Chakraborty
Ms. Susnita Saha
... for the State.

Mr. Mihir Kundu
... for KMC.

The petitioner complains of illegal and unauthorized construction at 63, Deshpran Sasmal Road, Kolkata- 700033, Ward No. 89, Borough-X.

The petitioner complains that construction is being made without obtaining any building sanctioned plan. Objection filed before the Corporation is pending consideration.

None appears on behalf of the respondent no. 8.

Learned advocate representing the Corporation is yet to receive instruction in the matter.

Instruction provided by the police is retained with the records.

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, Executive Engineer (Civil), Building, Ward No. 89, Borough - X 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.

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 16, 2023 to the aforesaid

respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Leave granted to the advocate-on-record of the petitioner to amend the description of the respondent no. 5 in the cause title of the writ petition. The proper description will be the Executive Engineer (C), Building.

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.)