

Item No.11

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.04.2023
Ct-24

WPA 4329 of 2023
Smt. Shephali Mondal
v.
The State of West Bengal & Ors.

Ms. Anindita Auddy (Das)
... for the petitioner.

Mr. Shibendra Nath Chattopadhyay
Mr. Pritam Misra
Ms. Sananda Das
... for the private respondent no. 6.

Mr. Barin Banerjee
Mr. Mihir Kundu
... for KMC.

The petitioner complains of illegal and unauthorized construction in the higher floors of the premises no. 16/1/H/36, Biplabi Barin Ghosh Sarani, Police Station-Maniktala, Kolkata-700067.

A complaint was lodged before the Commissioner of the Corporation in February 2023. The same has not been considered till date.

Learned advocate representing the private respondent submits that no new construction has been made.

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

Report filed by the Maniktala Police Station be 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. 3, the Municipal Commissioner or his delegate 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 February 9, 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.

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(Amrita Sinha, J.)