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14.06.2023
d.p.

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

W.P.A 4456 of 2023

**Smt. Anita Mondal & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Indranuj Dutta.
...For the Petitioners.**

**Ms. Rupsha Chakraborty.
...For the State.**

**Mr. Dwijadas Chakraborty.
...For KMC.**

**Mr. Syamantak Banerjee,
Mr. Devjit Chakraborty.
...For the Respondent
Nos. 7, 8 and 10.**

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

The petitioners complain of illegal and unauthorized construction at the instance of the private respondents at 3D, Mahendra Chatterjee Lane, P.O.-Topsia, Kolkata-700046, Borough-VII, Ward No. 59 under the jurisdiction of the Kolkata Municipal Corporation.

Allegation is that the construction is being made without maintaining the mandatory side open spaces and by blocking the ingress and egress of the petitioners.

Further allegation is that the common passage has been encroached upon at the time of making construction.

Objection filed before the Kolkata Municipal Corporation is pending consideration.

Allegation of the petitioners is denied by the learned advocate appearing for the private respondents.

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

As it appears that the representation of the petitioners 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 being the Executive Engineer (Civil)/Building Department, Borough VII 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.

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 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 petitioners are directed to forward a copy of the representation dated 18th November, 2022 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.)