

Item No.15

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

10.04.2023
Ct-24

WPA 4686 of 2023
Prabir Das
v.
The State of West Bengal & Ors.

Mr. Dyutiman Banerjee
... for the petitioner.

Ms. Sima Adhikari
Ms. Kakali Naskar
... for the State.

Mr. Debasis Kar
Mr. Subhojit Chowdhury
Mr. Arka Tilak Bhadra
... for the respondent no. 8.

The petitioner complains of illegal and unauthorized construction at 28 and 29, Swadhin Pally, P.S. -Baranagar, Kolkata-700050 under the jurisdiction of Baranagar Municipality.

The objection filed before the Municipality is pending consideration.

Learned advocate representing the respondent no. 8 denies the allegation of the petitioner.

A report has been filed by the Inspector-in-Charge, Baranagar Police Station signed on March 21, 2023. It appears therefrom that the police enquired the matter from Baranagar Municipality and collected a report from the Municipality wherein it has been specifically mentioned that illegal construction is going on at 28 and

29, Swadhin Pally without obtaining any sanctioned building plan from the Municipality.

None represents the Municipality despite service.

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

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. 4, Board of Councillors, Baranagar Municipality 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 August 3, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

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.)