

232
13.09.2023
d.p.

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

W.P.A. 4879 of 2023

**Smt. Aparna Dutta & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Pinaki Bhattacharyya,
Mr. Amartya Mohan Bhattacharyya.
...For the Petitioners.**

**Ms. Sima Adhikari,
Ms. Kakali Naskar.
...For the State.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

**Mr. Asit Kumar Bhattacharyya,
Ms. Mousumi Biswas.
...For the Private Respondents.**

The petitioners complain of illegal and unauthorized construction at the behest of the private respondents.

Legal representation filed on behalf of the petitioners objecting to such unauthorized construction is pending consideration.

Learned advocate appearing for the private respondents denies the allegation of unauthorized construction.

It has been submitted that the construction in question is an old one. A civil suit is pending consideration before the Learned Court below.

Learned advocate appearing for the Corporation submits, upon instructions, that the objection filed by the petitioners will be considered.

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 Commissioner or his delegate 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 legal representation dated 22nd January, 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.

(Amrita Sinha, J.)