

Item No. 22

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

10.01.2023
Ct-24

WPA 4769 of 2022
Surendra Kanu

v.

The State of West Bengal & Ors.

Mr. Dev Kumar Sharma
... for the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
... for HMC.

Md. Bani Israil
Mr. Amardeep Singh
Mr. Kanchan Gupta
... for the respondent no. 6.

The petitioner complains that the private respondent has made construction of a G+2 storied building without obtaining any sanction from the Howrah Municipal Corporation. Objection filed by the petitioner before the Howrah Municipal Corporation in February 2022 is pending consideration till date.

Learned advocate representing the private respondent admits that construction has been made without any sanction and at the same time submits that prayer for regularization of the construction made is pending consideration at the end of the Howrah Municipal Corporation.

Learned advocate for the private respondent submits that a writ petition being WPA 23740 of 2022 is pending consideration on the issue of regularization of the said construction.

The aforesaid writ petition is treated as on day's list and both the writ petitions are disposed of.

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 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 14, 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.

Sh

(Amrita Sinha, J.)