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Ct No 2023
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AGM

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

WPA 5025 of 2023

**Durga Banerjee
Vs
State of West Bengal & Ors.**

Mr. Soumajit Chatterjee
... For the petitioner.

Mr. Rama Prasad Sarkar
Ms. Debarati Sen (Bose)
... For the State.

Mr. Mrityunjoy Goswami
Mr. P. Goswami
... For the respondent nos. 2 to 5.

The petitioner complains of illegal and unauthorised construction at the instance of the private respondent over a joint property at holding no. 125, Mouja Chakraghata, JL No. 26, Hal Dag Nos. 32 and 33, Khatian No. 590/591/167/169, Ward No. 19 under the jurisdiction of Madhyamgram Municipality.

It has been submitted that apart from raising unauthorised construction over the joint property, the private respondent is running an illegal business of manufacture of charcoal from the said unauthorised construction without obtaining any license or permission from the Municipality.

Though the Municipality issued stop work notice but the private respondent continued with the unauthorised construction and has presently concluded the same.

The petitioner was compelled to lodge a complaint before the Pollution Control Board.

None represents the respondent no. 6.

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

Learned advocate representing the Municipality submits that stop work notice was issued in favour of the private respondent and the Municipality will look over the issue.

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.2 being the Madhyamgram 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 learned advocate for the petitioner is directed to forward a copy of the representations dated 21st September, 2022 and 24th 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.)