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25.04.2023
d.p.

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

W.P.A 5284 of 2023

**Bandana Maity Gole & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Sukanta Chakraborty,
Mr. Anindya Halder.
...For the Petitioners.**

**Mr. Mir Anuruzzaman.
...For the Municipality.**

**Mr. Sounak Bhattacharya,
Mr. Sounak Mondal,
Mr. Abhirup Halder.
...For the Respondent No.6.**

**Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.
...For the State.**

Petitioners allege illegal and unauthorized construction at the instance of the respondent no.6.

The objection filed against such unauthorized construction is alleged to be pending consideration before the Rajpur-Sonarpur Municipality.

Learned advocate appearing for the respondent no.6 denies the allegation of the petitioners.

It has been submitted that the construction has been made in accordance with the plan sanctioned.

It has further been submitted that a civil suit regarding encroachment of the common passage is pending consideration before the Learned Court below, however, at the instance of the father and one of the sisters of the present petitioners.

Learned advocate appearing for the Municipality submits that steps shall be taken to consider the objection.

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.2 being the Rajpur-Sonarpur Municipality 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.

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 10th February, 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.)