

01-05-2023
Item No.13
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.5688 of 2023
Smt. Asha Kumari Singh @ Asha Singh
-vs-
Champdani Municipality & Ors.

Mr. Tapas Kumar Bhattacharya
Mr. Aviroop Bhattacharya
Mr. B.P. Singha Roy ...for the petitioner

Mr. Ayan Banerjee
Mr. Soumo Chaudhury
Ms. Debbjani Sengupta ...for the municipality

Mr. Rachit Lakhmi
Mr. Amit Pareek
Mr. Mostafijur Rahaman ...for private respondents

The grievance of the petitioner in this writ petition is that the private respondents (respondents no.4, 5 & 6) are raising illegal and unauthorised construction without leaving the mandatory side open spaces and without a valid sanctioned plan. An objection (Annexure P7, p.71) dated February 15, 2023 allegedly filed before the Champdani Municipality is pending consideration.

Learned counsel representing the private respondents denies the submission of the petitioner and submits that the construction is being made strictly in accordance with the duly sanctioned plan.

Learned counsel representing the municipality is yet to receive instructions in the matter.

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, I am of the view that the writ petition may be disposed of by the following order.

The writ petition is accordingly disposed of by directing the respondent no.1 being the Champdani 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. A reasoned decision shall be passed and communicated to all the necessary parties, including the petitioner forthwith.

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 of the sanctioned 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 between 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 petitioner's claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated February 15, 2023 to the aforesaid respondent at the time of communication of the order of the court.

The writ petition stands disposed of. No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

[Amrita Sinha, J.]