

ML 190
26.04.2023
d.p.

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

W.P.A 5632 of 2022

**Jubair Hossain Molla & Anr.
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Gobinda Kar.
...For the Petitioners.**

**Mr. Susanta Pal,
Mr. Prabir Kumar Ray.
...For the State.**

**Mr. Shahan Shah,
Sk. Abu Musa,
Mr. Soumen Barman.
...For the Respondent
Nos.8 to 12.**

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

None appears on behalf of the Kolkata Municipal Corporation in spite of service.

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

Objection filed against such unauthorized construction has not been considered till date.

The petitioners submit that construction of two structures, one G+2 and the other G+1 have been

constructed at premises no. Y-219, Panch Para Road, P.S.-Nadial, Kolkata-700018 without obtaining any sanction at all.

Learned advocate appearing for the private respondents denies the allegation of the petitioners and submits that the construction is an old one and no new construction has been made.

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 Commissioner, Kolkata Municipal Corporation 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.

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 16th April, 2021 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.)