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28.03.2023
d.p.

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

W.P.A 6139 of 2023

**Md. Shujauddin & Ors.
-versus
Howrah Municipal Corporation & Ors.**

**Mr. Nilanjan Bhattacharjee,
Mr. Abhilash Chatterjee,
Mr. Saikat Dey.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

**Mr. Golam Mastafa,
Mr. Tarasankar Samanta.
...For the Respondent No.7.**

The matter is being taken up out of turn, as the learned advocates representing all the parties submit that the matter is related to item no. 13 of today's list i.e. WPA 18485 of 2022.

At the time of consideration, it appears that though there is an allegation of unauthorized construction and the parties are the same but the premises number in both the writ petitions are different.

The petitioner alleges illegal and unauthorized construction in holding no. 81/1, Cowies Ghat Road, Shibpur, Ward No.-36, Borough-V, Howrah-711102

under the jurisdiction of Howrah Municipal Corporation.

Objection filed against such unauthorized construction allegedly has not been taken up for consideration by the Howrah Municipal Corporation till date.

Learned advocate appearing for the private respondent denies the allegation of the petitioner. It has been submitted that the construction in question is in existence for the last 32 years.

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. 1 being the Howrah Municipal Corporation 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 25th August, 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.

(Amrita Sinha, J.)