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Ct 2023
No24
AGM

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

WPA 7034 of 2023

**Prabir Paul
Vs
State of West Bengal & Ors.**

Mr. Snehasis Jana

... For the Petitioner

Ms. Sipra Mazumdar

Mr. Sangeeta Roy

... For the State.

Mr. Rwitendra Banerjee

Mr. Debdutta Pathak

Mr. Sandip Kundu

... For the respondent nos. 6 to 8.

The petitioner complains of illegal and unauthorised construction at the instance of the private respondents. It appears that on receipt of a complaint filed by the petitioner the private respondents were directed to show cause as to why steps shall not be taken against the unauthorised construction made by them.

The petitioner submits that after issuance of the show cause notice, no steps have been taken by the municipality to redress the issue.

Learned advocate representing the private respondents submits, upon instruction that, there are two constructions made at the instance of the private respondents; one is a very old construction and the other is a comparatively new one. The private respondents have applied for sanction of the plan construction of which has been made lately.

None represents the Municipality.

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

In the absence of any representation on behalf of

the Municipality, the issue cannot be decided conclusively.

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. 3, Board of Councillors, Ghatal 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.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

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 27th September, 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.)