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Ct
No24
AGM

04.07
2023

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

WPA 7442 of 2023

**Rajani Sau
Vs
The State of West Bengal & Ors.**

**Mr. Amit Baran Dash
Ms. Ankana Sarkar**

... for the Petitioner.

**Mr. Debasish Das
... For the respondent nos. 9 and 10.**

The petitioner complains that the private respondents have raised construction over a joint property which is yet to be partitioned, without obtaining any sanction from the Egra Municipality.

Objection was filed before the Municipality but the same has not been considered till date.

Learned advocate representing the respondent nos. 9 and 10 submits, upon instruction that, the plan was obtained prior to raising construction over the portion of the property which is in possession of the private respondents. Construction has been made in accordance with the sanctioned plan.

Affidavit of service filed today is kept with the records.

None represents the Municipality and the respondent nos. 8 and 11.

It appears from the submissions made on behalf of the parties that construction has been made by the respondent nos. 9 and 10 allegedly upon obtaining sanction from the Municipality.

There is nothing on record to suggest that the respondent nos. 8 and 11 made construction after obtaining sanction from the Municipality.

In view of the above, the instant writ petition is disposed of by directing the Board of Councilors of Egra Municipality to take into consideration the objection filed by the petitioner against the unauthorised construction raised by the respondent nos. 8 and 11.

Spot inspection shall be conducted by the engineers of the Municipality to ascertain the allegation of construction made by the petitioner.

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 9th May, 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.*)