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Ct 2023
No24
AGM

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

WPA 7647 of 2023

**Sri Jogesh Prasad Gupta
Vs
The State of West Bengal & Ors**

Mr. Sanjib Seth
... for the petitioner

Mr. Srijib Chakraborty
Mr. Subhasis Chakraborty
Mr. Sunny Nandy
... for the respondent nos. 8 to 10

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumdar
... for the HMC.

Mr. S. Chatterjee ... for the State.

The petitioner alleges that the private respondents are guilty of raising unauthorised construction.

The petitioner complains that construction has been made in deviation of the sanctioned building without maintaining the mandatory side open spaces.

Objection filed against such unauthorised construction is pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the complaint was lodged as a counterblast to the complaint lodged by the private respondents against unauthorized construction made by the writ petitioner.

It has been submitted that the construction of the private respondents was concluded way back in the year 2012. No new construction has been made at present.

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 Commissioner, HMC or his delegate 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 20th March, 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.)