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Ct 2023
No24
AGM

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

WPA 7924 of 2022

**Ratan Kumar Mallick
Vs
The State of West Bengal & Ors.**

**Mr. S. N. Dutta
Mr. Saikat Karmakar**

... For the petitioner.

Mr. Rajendra Chaturvedi

... For the Municipality.

The petitioner complains of illegal and unauthorised construction at the behest of the respondent no. 6.

It has been submitted that two walls with concrete shed has been constructed over a common passage without obtaining any sanction from Rishra Municipality. Repeated representations filed before the Municipality did not yield any result.

Learned advocate representing the Rishra Municipality submits that the dispute between the petitioner and the private respondent is absolutely civil and private in nature. It has been highlighted that the issue is regarding encroachment of the common passage. The Municipality is not in a position to decide the private dispute of the parties.

None represents the private respondents.

Affidavit of service filed by the petitioner be kept with the records.

It appears from the submission made on behalf of

both the parties that the petitioner complains of unauthorised construction made over a common passage. The place where the construction is made is not very important. What the Municipality is to decide whether the construction has been made in accordance with any plan/permission sanctioned by the Municipality.

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 Rishra 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.

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.

The learned advocate for the petitioner is directed to forward a copy of the representation dated 31st August, 2016 and reminder dated 7th April, 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.)