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05.07.2023
d.p.

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

W.P.A 8526 of 2023

**Kanchan Kumar Dhara
-versus
Midnapore Municipality & Ors.**

**Mr. Mohan Kumar Putatunda,
Mr. Anirban Majumder,
Mr. Abhinaba Chatterjee.
...For the Petitioner.**

**Mr. Sujay Bandyopadhyay,
Mr. Jagajyoti Das.
...For the Municipality.**

**Mr. Saurav Chaudhuri,
Ms. Sukla Das Chandra.
...For the State.**

**Mr. Tanmay Chowdhury,
Ms. Ritoprita Ghosh,
Mr. Debmalya Das.
...For the Respondent
Nos. 4 and 5.**

The petitioner complains that the private respondents have made illegal construction over Plot No. P-48. The construction has been made without valid sanction from the Midnapore Municipality.

A complaint was lodged before the Midnapore Municipality. The same has not been considered till date.

Specific allegation is that the construction is being used as a Nursing Home and the biological

wastes are strewn in the entire locality. The mandatory side open spaces have not been maintained at the time of making construction.

Learned advocate appearing for the private respondents denies the allegation of the petitioner. It has been submitted that the construction has been made in accordance with the plan sanctioned.

Learned advocate appearing for the Municipality submits, upon instruction that, on inspection several illegalities in construction have been detected.

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 Midnapore 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 26th November, 2018 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.)