

13.02.2023

sl.no.26

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In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

W.P.A. 8197 of 2022

C.A.N. 1 of 2022

Sri Rajendra Sharma

Vs.

State of West Bengal & ors.

Mr. Souri Ghosal

Mr. Nirmal Sharma

Mr. Prabhat Kumar Singh

... for the petitioner

Mr. Rajendra Chaturvedi

... for Rishra Municipality

Mr. Asish Kumar Guha

Mr. Naren Ghosh Dastidar

... for the State

Leave is granted to the learned Advocate on record of the petitioner to implead Rishra Municipality and the Board of Councillors, Rishra Municipality, as party-respondents in the instant writ petitioner. The formality of serving a copy of the writ petition upon the added respondents stands dispensed with as Mr. Rajendra Chaturvedi, learned Advocate has already entered appearance on behalf of the Rishra Municipality.

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents. Specific allegation is that construction is being made without maintaining the statutory side open space.

The objection filed by the petitioner before the Municipality is pending consideration.

None appears on behalf of the private respondents. Affidavit of service filed in Court is taken on record.

In view of the order that I propose to pass, none of the parties will be prejudiced if the writ petition is disposed of in the following manner.

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 twelve weeks 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.

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 22nd February, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition and the connected application is 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.)