

Item No.42

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.05.2023
Ct-24

WPA 8263 of 2022
Shib Sankar Sett

v.

The State of West Bengal & Ors.

Mr. Suman Chakraborty
... for the petitioner.

Mr. Tanmoy Chowdhury
... for the respondent nos. 4 to 6.

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents. In response to the objection filed by the petitioner, Hooghly Chinsurah Municipality directed the private respondent to produce documents in support of the construction made. It appears that despite repeated requests made to the private respondent, no document has been submitted.

The Municipality is yet to take any steps against the unauthorized construction.

None represents the private respondent.

Affidavit-of-service filed in Court today is taken on record.

In view of the order that I propose to pass none of the non appearing 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 respondent no. 5 being the Board of Councillors, Hooghly Chinsurah Municipality to consider and dispose of the representation made by the petitioner strictly in accordance with law by giving a reasoned decision, 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 reasoned decision once passed shall be communicated to all the necessary parties, including the petitioner forthwith.

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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioner's claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioner's representation.

The petitioner is directed to forward a copy of the representation dated October 8, 2020 to the aforesaid respondent at the time of communication of the order of the Court.

The writ petition stands disposed of.

Certified of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

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(Amrita Sinha, J.)