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Ct No 2023
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AGM

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

WPA 9123 of 2023

**Bijan Sarkar
Vs
The State of West Bengal & Ors.**

Mr. Aritra Shakar Ray
Ms. Adrisnata Chakraborty
... For the Petitioner.

Mr. Mrinal Kanti Ghosh
... For the Municipality.

Mr. Rama Prasad Sarkar
Ms. Anita Deb Jana ... For the State.

The petitioner complains of illegal and unauthorised construction at the behest of the respondent no. 5 Mr. Sanjay Bhattacharya son of late Pradip Kumar Bhattacharya.

The petitioner and the private respondent are owners of adjacent premises allegedly separated by a common boundary wall.

Allegation is that the private respondent is raising construction by not maintaining the mandatory side open spaces.

Objection filed before the Kharagpur Municipality is pending consideration till date.

None represents the private respondents.

On a perusal of the writ petition it appears that the name of the father of the private respondent has been incorrectly mentioned in the cause title of the writ petition.

Leave is granted to the learned advocate on record of the petitioner to correct the name of the father of the private respondent in the cause title of the writ petition.

It further appears that the representation filed by the petitioner before the Kharagpur Municipality is dated

10.02.2022 followed by a further representation dated 15.02.2023 and a notice demanding justice dated 27.02.2023. None of the representations have been considered.

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.4, Board of Councillors, Kharagpur 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 legal representation dated February 27, 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.)