

17.07.2023.
Court No.24
Item No. 35
pk

W.P.A. No. 9470 of 2023

**Nasima Bibi
Versus
State of West Bengal and others**

Mr. Maidul Islam Kayal,
Mr. Sumit Naskar

...For the petitioner.

Mr. Shahan Shah
... For the respondent nos. 9 and 10.

Ms. Amrita Panja Moulick
...For the State.

The petitioner complains that the private respondents have raised construction in deviation of the plan sanctioned by the Municipality. Objection filed by the petitioner before the Municipality is pending consideration.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that construction has been made pursuant to the plan sanctioned by the Municipality in the year 2004 and the construction is long over.

Copy of the sanctioned plan issued by the Mahestala Municipality in February 2004 has been produced in Court. The same is perused and returned to the learned advocate representing the private respondents.

It has been submitted that the instant writ petition is a fall out of the earlier writ petition filed by

the private respondents alleging unauthorised construction at the instance of the petitioner.

None appears on behalf of the Mahestala Municipality despite service. Affidavit of service filed in Court today is taken on record.

In the absence of the Municipality, it is not possible for the Court to decide the issue conclusively.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 being the Board of Councillors, Mahestala 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 23.03.2023 to the aforesaid respondent at the time of communicating the order of the Court.

The report filed by the I.C., Maheshtala Police Station be kept with the record.

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.)