

38
17.07.2023
sb
Ct 24

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9667 of 2023

Kabita Mal
Vs.
The Howrah Municipal Corporation & Ors.

Mr. Debarshi Brahma
... For the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder
... For Howrah Municipal Corporation

Mr. Prosanjit Barman
... For the respondent nos. 5 & 6.

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

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents. Allegation is that construction has been made without leaving the mandatory side open spaces.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that the petitioner purchased the property only in the year 2018, thereafter made illegal construction by blocking the window of the private respondents. On complaint being lodged, Howrah Municipal Corporation demolished the illegal construction made by the petitioner herein.

Learned advocate representing Howrah Municipal Corporation submits that the instant writ petition is a

counterblast of the earlier writ petition filed by the private respondents alleging unauthorized construction at the behest of the petitioner herein. Such unauthorized construction of the petitioner stood partly demolished by Howrah Municipal Corporation. As a fall out, the instant writ petition has been filed out of grudge to take revenge.

Without entering into the allegation and the counter allegation of the parties, as it appears that a representation is pending consideration at the end of the Assistant Engineer, Building, accordingly, the respondent no.3, being the Assistant Engineer, Borough-VII is directed to take steps 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 deviation of 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 10th April, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition is disposed of accordingly.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)