

13.02.2023

sl.no.29

SS

In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

W.P.A. 9392 of 2022

Sukomal Biswas & Anr.

Vs.

The State of West Bengal & Ors.

Ms. Susmita Saha Dutta

Mr. Niladri Saha

Ms. Madhurima Basu

... for the petitioners

Mr. Ahibhusan Chakraborty

Ms. Rupsha Chakraborty

... for the State

Ms. Deboleena Ghosh

Mr. S. Banerje

Mr. A. K. Nag

... for Raiganj Municipality

The petitioners complain of illegal and unauthorised construction at the instance of the private respondents. The complaint against such unauthorised construction filed before the Raiganj Municipality is pending consideration.

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

Learned Advocate representing the Municipality submits that steps shall be taken for consideration of the objection filed by the petitioners.

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 respondent no.2, Raiganj 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 petitioners 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 petitioners.

The petitioners are directed to forward a copy of the representation dated 18th April, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

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

(Amrita Sinha, J.)