

Item No.43

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.07.2023
Ct-24
AGM

WPA 9913 of 2023
Suparna @ Roni Chakraborty
v.
The State of West Bengal & Ors.

Mr. Supratik Basu
Mr. Shuvam Shaw
Ms. Samata Chhari
... for the petitioner.

Mr. Achintya Kumar Banerjee
Md. Ziaur Rahaman
... For the KMC.

Ms. Iti Dutta
... For the State.

The allegation of the petitioner is that the private respondent has raised construction in such a manner that the right to free ingress and egress to the petitioner's plot at premises no. 811, Purba Putiary in Ward No. 114 of the KMC has been obstructed.

The petitioner relies upon an information provided under the Right to Information Act mentioning that the premises in question was recorded in favour of her mother Smt. Indira Chakraborty, wife of Shri Manik Lal Chakraborty and the land area is six cottahs 35 Square feet. The land is a vacant land.

The petitioner filed objection before the Executive Engineer of the Borough – XI complaining unauthorised construction. The same is pending consideration.

None represents the private respondent despite service.

Affidavit-of-service filed in Court today be kept with the records.

Learned advocate representing the KMC has produced written instruction from the Sub Assistant Engineer (Civil) and Assistant Engineer (Civil)/(Building)/ Borough -XI dated 6th June 2023 which reiterates the submission of the petitioner that the land is a vacant land recorded in favour of her mother.

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 Executive Engineer (Civil/Building), Borough No. XI, KMC 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 10th March, 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.)