

Item No.18+19

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

03.05.2023
Ct-24

WPA 9589 of 2022
Nausad Alam

v.

The Kolkata Municipal Corporation & Ors.
with

WPA 19049 of 2022
Halima Khatoon

v.

The State of West Bengal & Ors.

Mr. Sabyasachi Bhattacharya
Mr. Zeeshaan Ahmed Tarafdar

... for the petitioner in
WPA 9589 of 2022 and for
the private respondent in
WPA 19049 of 2022.

Mr. Shahan Shah
Mr. Sk. Abumusa

... for the Petitioner in WPA 19049 of 2022
& respondent nos. 10 & 11
in WPA 9589 of 2022 &

Mr. Subhrangsu Panda
Ms. Ina Bhattacharya

... for KMC in both the matters.

Mr. Srinath Singha Roy

... for the State in WPA 9589 of 2022.

Mr. Himadri Sikhar Chakraborty
Ms. Debdooti Dutta

... for the State.

Naushad Alam has filed the writ petition against
Halima Khatoon and others alleging illegal and
unauthorized construction at premises no. G-92,
Battikal 1st Lane, P.O.& P.S.-Garden Reach, Kolkata-700
024.

Allegation of Nausad is that construction is being made without any sanctioned plan and without maintaining the side open spaces.

Halima Khatoon has filed a separate writ petition alleging that Nausad is making construction over the premises no. G-93/B, Battikal 1st Lane and also G-93, Battikal 2nd Lane. Allegation is that construction has been made without a sanctioned plan and without maintaining the statutory side open spaces.

Objection filed before the Kolkata Municipal Corporation on behalf of both Halima and Nausad is pending consideration.

It appears from the submissions made on behalf of both the parties and upon perusal of the materials on record that there are allegations and counter allegations of unauthorized construction by the petitioners.

The petitioners in both the writ petitions filed separate objections before the Corporation and the objections are pending consideration.

As it appears that the representation of the petitioners objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, accordingly, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the Executive Engineer (Building Department), Borough-XV to consider and dispose of the representation made by the petitioners strictly in accordance with law by giving a reasoned decision, after giving an opportunity of hearing to all the necessary parties, including the petitioners, within a period of

three months from the date of communication of a copy of this order. The reasoned decision once passed shall be communicated to all the necessary parties, including the petitioners forthwith.

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 of the sanctioned plan, then necessary steps shall be taken dealing 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 between 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 petitioners' claim, and that all points are left open to be decided by the aforesaid respondent at the time of consideration of the petitioners' representation.

The learned advocates of the petitioners are directed to forward the objections filed before the Kolkata Municipal Corporation to the aforesaid respondent at the time of communicating the order of the Court.

Both the writ petitions stand disposed of.

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

Urgent photostat certified copy of this order, if applied for, be made available to the parties on compliance of usual legal formalities.

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(Amrita Sinha, J.)