

13.09.2023
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AN/Ct. No. 24

WPA 10292 of 2023

**Riya Das
versus
The Kolkata Municipal Corporation & ors.**

Mr. Ramij Munsii
Ms. Champa Pal

... for the petitioner

Mr. Jayanta Samanta
Mr. Parikshit Goswami

... for the State

Mr. A. K. Biswas

... for the KMC

The petitioner complains of illegal and unauthorised construction at the behest of the private respondent at 128A/7, Moulana Azad Kalam Azad Sarani, P.S. Phoolbagan under Ward No. 30 of Kolkata Municipal Corporation. Specific allegation is that the open car parking space has been reconstructed into a two bedroom flat and steps are being taken for selling off the same. Complaint lodged against such unauthorised construction is pending consideration at the end of the Kolkata Municipal Corporation.

None represents the private respondents.

In view of the order that I propose to pass, none of the non-appearing parties would be prejudiced if the writ petition is disposed of in the following manner.

The writ petition is accordingly disposed of by directing the respondent no. 4 to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of twelve weeks from the date of communication 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 unauthorised 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.

To avoid multiplicity of legal proceeding the private respondents are restrained from transferring/ alienating/ selling or creating third party right in respect of the subject structure.

The petitioner is directed to forward a copy of the representation dated 05.04.2023 to the aforesaid respondent at the time of communicating the order of the Court.

The instant writ petition stands **disposed of**.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Amrita Sinha, J.)