

06.12.2023
(M/L-116)
Ct.-24
(Susanta)

W.P.A. 9923 of 2022

Sm. Gitanjali Mitra

-Vs-

The Kolkata Municipal Corporation & Ors.

Mr. Dipak Kumar Mookerjee,
.... For the Petitioner.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
.... For the K.M.C.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent at 9/C Raja Manindra Road, Kolkata -700037 under Borough-I of the Kolkata Municipal Corporation.

The complaint lodged against such unauthorized construction is pending consideration at the end of the Executive Engineer (Building), Borough I.

None appears on behalf of the private respondents. Affidavit-of-service is taken on record.

Learned advocate for the Corporation is not ready with proper instruction.

In view of the order that I propose to pass, none of the non appearing 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 being the Executive Engineer (Building), Borough I 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 6th January, 2022 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.)