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08-05-2023  
debajyoti  
(Ct. no.06)

**MAT 737 of 2023**  
+  
**IA NO:CAN/1/2023**

**Shakuntala Halder & Ors.**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Nirmalya Kumar Das,  
Mr. Jahangir Hossain  
... For the Appellants.

Mr. Amal Kumar Sen, learned AGP,  
Mr. Swapan Kumar Pal  
... For the State.

Mr. Dipak Kumar Mukhopadhyay  
... For Respondent Nos.2, 3 & 4.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

A judgment and order dated April 04, 2023, whereby the writ petition of the appellants being WPA 29167 of 2022 was disposed of, is under challenge in this appeal.

The appellants/writ petitioners approached the learned Single Judge with the grievance that the respondent no.7 club has made unauthorized construction on the plot in question. Their representation to the Budge Budge Municipality has not been considered.

The respondent club denied before the learned Judge that it was responsible for the construction which is a temple. According to the club, the local people have constructed the temple.

The learned Judge disposed of the writ petition with the following directions:-

“ The writ petition is accordingly disposed of by directing the Budge Budge Municipality 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 petitioners 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 petitioners 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. ”

Being aggrieved, the writ petitioners are before us by of this appeal.

Learned advocate for the appellants says that the unauthorized construction has been completed already in hot haste. There is no sanction for such construction. He further says that the construction has been made on land belonging to the appellants. This is, however, disputed by learned advocate for the Municipality.

The respondent club is not represented. However, in view of the order that we propose to pass, we do not wish to defer hearing of the matter.

We are at a loss to understand as to why the appellants are aggrieved with the order impugned. The learned Judge has clearly directed the Municipality to consider the representation of the writ petitioners in accordance with law and pass a reasoned order after granting opportunity of hearing to all concerned parties, including the writ petitioners or their authorized representatives. Needless to say, the representative of the respondent club shall also be granted an opportunity of hearing. If the Municipality comes to the conclusion that the impugned structure is unauthorized, prompt steps shall be taken for removal of the same in accordance with law. The entire exercise should be completed within ten weeks from the date of communication of this order to the Chairman of the Municipality.

The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition, shall be deemed not to have been admitted by the respondents.

All parties shall act on server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

**(Apurba Sinha Ray, J.)      (Arijit Banerjee, J.)**