

ML 126
06.12.2023
Court No. 24
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 10319 of 2022

**Pintu Paul & Ors
-versus
The State of West Bengal & Ors.**

**Mr. P. K. Bhattacharya
...For the Petitioners.**

**Ms. Malabika Roy De
Mr. Uttiya Roy
... For the respondent nos. 8 and 9.**

The petitioners complain of illegal and unauthorised construction at the behest of the private respondents.

On receipt of the complaint lodged by the petitioners, the municipality issued a notice under Section 220 (1) of the West Bengal Municipal Act, 1993 on 6th April, 2022 but thereafter did not take any further steps in the matter.

The petitioners submit that the private respondents, defying the stop work notice, continued with the construction work and have completed the same by now.

Prayer has been made for demolition of the unauthorised construction.

Learned advocate representing the private respondents denies the allegation of the petitioners. It has been submitted that the construction has been made in accordance with law.

The Municipality is not represented.

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

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, Board of Councillors, Burdwan Municipality 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 representations dated 25th February, 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.)