

CL 129
06.12.2023
d.p.

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

W.P.A. 10755 of 2022

**Azmira Bibi
-versus
The State of West Bengal & Ors.**

**Mr. Pinaki Bhattacharyya,
Mr. Amartya Mohan Bhattacharya.
...For the Petitioner.**

**Ms. Munmun Tewary,
Mr. Sanatan Panja.
...For the State.**

**Mr. Srijan Nayek,
Mr. Dwijadas Chakraborty.
...For KMC.**

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

None appears on behalf of the private respondents in spite of service.

Leave is granted to the learned advocate-on-record of the petitioner to correct the designation of the respondent no. 5 in the cause title of the writ petition.

The correct respondent should be the Executive Engineer, Building Department, Borough-XV.

The petitioner complains of illegal and unauthorized construction of a multistoried building at the behest of the private respondents.

Objection filed against such unauthorized construction has not been disposed of till date.

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.

The petitioner complains that the objection raised against such illegal construction has not been considered by the respondent authorities till date.

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 being the Executive Engineer, Building Department 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 26th April, 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.)