

Item No.21(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

06.02.2023
Ct-24

WPA 13111 of 2021
Akhtar Hussain

v.

The Kolkata Municipal Corporation & Ors.

Md. Siraj Munir
... for the petitioner.

Mr. Sudipto Panda
Ms. Munmun Tewary
... for the State.

Mr. S. Sharma
Mr. R. Dutt
Mr. R. Bhattacharjee, Vaka filing no. A-1329
Mr. S. Pandey
... for the respondent no. 8.

An accommodation has been sought for on behalf
of the learned advocate representing the petitioner.

None appears on behalf of the Kolkata Municipal
Corporation.

The State and the respondent no. 8 are represented.

As it appears that the matter is pending from
August 2021 the Court is not inclined to adjourn the
matter any further.

From the averments made in the writ petition it
appears that the petitioner complains of illegal and
unauthorized construction at the instance of the private
respondents at 3, Miajan Ostagar Lane, P.S.-Karaya,
Kolkata-700017.

The petitioner complains that the construction is being made without obtaining any plan sanctioned from the Kolkata Municipal Corporation. The objection filed before the Kolkata Municipal Corporation is yet to be disposed of.

The learned advocate representing the respondent no. 8 submits that his client in no way connected with the construction in question.

In view of the order that I propose to pass no prejudice shall be caused to the non-appearing respondents, 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. 4 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.

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 August 4, 2021 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.

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(Amrita Sinha, J.)