

Item No.22

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

08.12.2023
Ct-24

WPA 12724 of 2023
Debajyoti Purkait

v.

The State of West Bengal & Ors.

Mr. Ranjan Kumar Kali
Mr. Diganta Das
... for the petitioner.

Mr. Prasenjit Barman
Mr. Subir Roy
Mr. Mrityunjoy Saha
... for the respondent no. 5.

The grievance of the petitioner is that the private respondent has constructed an additional floor over and above the sanctioned floors without obtaining any sanction. Complaint lodged against such unauthorized construction is pending consideration at the end of the South Dum Dum Municipality.

Learned advocate representing the private respondent submits, upon instruction that, a revised plan was submitted for sanction but the sanction has not yet been granted.

None represents the South Dum Dum Municipality.

Affidavits of service filed in Court today be retained 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. 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 learned advocate for the petitioner is directed to forward the copy of the representation dated May 10, 2023 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.)