

Item No.24

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

08.12.2023
Ct-24

WPA 13254 of 2023
Smt. Shyamali Banerjee & Ors.
v.
The State of West Bengal & Ors.

Mr. Netai Chandra Saha
Mr. Santanu Banik
Mr. Abhijit Chandra Majumder
... for the petitioners.

Ms. Mitali Mukherjee
Ms. Manika Pandit
... for the State.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for KMC.

None represents the private respondents.

The petitioners complain of illegal and unauthorized construction at the behest of the private respondents. Complaint lodged against such unauthorized construction is pending consideration.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive written instruction in the matter.

In view of the order that I propose to pass, none of the non-appearing respondents would be prejudiced if the writ petition is disposed of in the following manner.

As it appears that the representation of the petitioners 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, Executive Engineer, Building department, Borough IX 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.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The learned advocate for the petitioners is directed to forward the copy of the representation dated

May 20, 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.)