

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

WPA 14538 of 2023

**Md. Shahid Ansari
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Indrajit Bhattacharjee
... For the petitioner.**

**Mr. Bibek Jyoti Basu
Mr. Partha Sarathi Sensharma
... For the State.**

**Mr. S. Panda
Ms. Susmita Chatterjee
... For the Kolkata Municipal Corporation.**

The petitioner complains of illegal and unauthorised construction at N-152, Ballam Tala Lane, Ward No. 133, Borough XV, Garden Reach, P.S. Metiabruz, Kolkata-700 024.

The petitioner submits that though a plan has been sanctioned for making construction at the subject premises, but there has been massive deviation at the time of making construction. The mandatory side open spaces have not been maintained at the time of making construction.

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

Learned advocate representing the Corporation has not received any 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.

It appears from the report of the police that a specific case under Section 115 dated 18th August, 2023 under Section 401A, KMC Act, 1980 has been registered against the respondent nos. 6 to 8 and others.

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 Executive Engineer, Borough XV 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 12th June, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The instruction forwarded by the Metirbruz P.S., be retained with the records.

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.)