

ML 98
11.01.2023
d.p.

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

W.P.A 16031 of 2021

**Md. Fazal Haque
-versus
The State of West Bengal & Ors.**

**Mr. Manas Kumar Das,
Mr. Aritra Kumar Thokdar.
...For the Petitioner.**

**Mr. Raghunath Chakraborty,
Ms. Ina Bhattacharyya.
...For the Municipality.**

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

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

The petitioner alleges illegal and unauthorized construction at the instance of the respondent nos. 5 and 6 and complains that the objection filed on 6th September, 2021 has not been taken up for consideration till date.

Learned advocate appearing for the Municipality is not ready with proper instructions.

In view of the order that I propose to pass, none of the non-appearing respondents will be prejudiced 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.2 being the Maheshtala Municipality 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 6th September, 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.

(Amrita Sinha, J.)