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09.10.2023
A.G.M.

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

W.P.A 15305 of 2023

**Sri Sumit Bandopadhyay
-versus
Kamarhati Municipality & Ors.**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali
Mr. Dhiman Banerjee
...For the Petitioner.**

**Mr. Sanjib K. Mukhopadhyay
Mr. P. Ray
Ms. Aparupa Bhattacharya
Ms. Nargish Parveen
...For the Respondent Nos. 4 & 5.**

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

None appears on behalf of the Municipality.

The petitioner seeks consideration of the objection filed before the Kamarhati Municipality alleging deviation in raising construction at the end of the private respondents.

It has been contended that plan was obtained upon playing fraud.

The land in question where the plan has been obtained is a joint one and the private respondents ought not to be permitted to raise construction thereon.

A civil suit between the petitioner and the private respondents is pending consideration before the learned Court below.

Learned advocate representing the private respondents submits, upon instruction that, the place

where the construction is being made is not joint any more. The rights of the parties have already been declared by the Court.

According to the private respondents, construction is being made in accordance with the plan sanctioned.

Without entering into the claim and counter claim of the parties, the instant writ petition is disposed of by directing the Kamarhati Municipality to consider the representation of the petitioner only with regard to the allegation of deviation at the time of raising construction.

The other issue regarding sanction of the building plan may not be decided at this stage as the private rights of the parties qua the land in question is pending consideration in the civil suit.

A spot inspection shall be conducted upon prior notice to all the necessary parties to ascertain as to whether there is any deviation at the time of raising construction.

If it ultimately transpires that construction has been made in deviation of the plan sanctioned, then necessary consequential steps shall be taken by the Municipality to deal with the same.

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 10th April, 2023 to the Kamarhati Municipality 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.)