

07
24.01.2023
d.p.

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

W.P.A 16395 of 2022

**Sukanta Kundu & Anr.
-versus
The Rajpur Sonarpur Municipality & Ors.**

**Mr. Soomava Mukherjee,
Mr. K.N. Jana.
...For the Petitioners.**

**Mr. Mir Anuruzzaman.
...For the Municipality.**

**Mr. Sanjib Bondhopadhyay,
Mr. Ashoke Kumar Singh,
Mr. Monoj Kumar Mondal.
...For the Private Respondent.**

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

The petitioners complain of illegal and unauthorized construction carried out at the instance of the private respondents at LR Dag No. 429 formerly known as R.S. Dag No. 398, Mouza-Teghori under Rajpur Sonarpur Municipality.

The petitioners allege that the objection filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate appearing for the respondent Nos. 3 and 4 denies the allegation of the petitioners.

It has been submitted that the construction existed for a long period of time and no new construction has been made at the instance of the private respondents.

It has been submitted by the private respondents that there is a dispute with regard to title of the property and several civil suits are pending consideration before the Learned Civil Court.

Learned advocate appearing for the Municipality submits that notice was sought to be served upon the respondent Nos. 3 and 4 to produce documents in support of the construction made, but the said respondents refused to accept service of the said notice.

As the issue relates to unauthorized construction, accordingly, the matter is required to be ascertained by the Rajpur Sonarpur Municipality as to whether any unauthorized construction has been made or not.

Learned advocate appearing for the respondent nos. 3 and 4 is directed to accept service of the notice sought to be served by the Rajpur Sonarpur Municipality for production of documents in support of the construction made. The same shall be sufficient service upon the private respondents.

The writ petition is disposed of by directing the respondent no.1 being the Rajpur Sonarpur Municipality to consider and dispose of the representation made by the petitioners strictly in accordance with law, after giving reasonable 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 petitioners are directed to forward a copy of the legal representation dated 27th June, 2022 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.)