

Item No.1

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.10.2023
Ct-24

WPA 17430 of 2021
with
CAN 1 of 2023

Ashfaque Ahmed Khan
v.
The State of West Bengal & Ors.

Mr. Fazlul Haque
Mr. Ghalib Rizwan
... for the petitioner.

Mr. Iqbal Hussain
... for the private respondent.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
... for KMC.

The petitioner prays for recalling the order dated
February 7, 2023.

I have perused the application for recalling and
being satisfied with the reasons mentioned therein for
non-appearance of the learned advocate on the day the
matter was taken up for consideration by the Court,
recall the order dated February 7, 2023.

The writ petition is restored to its original file and
number.

The petitioner alleges illegal and unauthorized
construction at the behest of the private respondent.

Objection filed against such illegal construction is
pending consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the construction in question has been made in accordance with the plan sanctioned.

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. 5 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 learned advocate for the petitioner is directed to forward the copy of the representation dated September 7, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition and the connection application stand 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.)