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16.11.2023
d.p.

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

W.P.A. 16560 of 2023

**Arun Kumar Bandopadhyay
-versus
The State of West Bengal & Ors.**

**Ms. Shebatee Datta,
Ms. Babita Dey.
...For the Petitioner.**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali.
...For the Bally Municipality.**

**Mr. Rajdeep Mantha,
Mr. Rudranil Ghosh.
...For the Respondent
Nos. 5, 6 and 7.**

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

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents at 42, Sirkhel Para Lane, P.O. and P.S.-Bally, Howrah-711201.

Objection filed against such unauthorized construction is pending consideration at the end of the Bally Municipality.

Learned advocate appearing for the private respondents is yet to receive proper instruction from his clients.

Learned advocate appearing for the Bally Municipality submits, upon instructions, that there is unauthorized construction to the extent of 2200.32 sq.mt. at the behest of the person responsible for making construction.

It has been submitted that there are deviations in each and every floors constructed over the subject premises. The fifth and the sixth floors have been constructed without obtaining any sanction.

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 Bally 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.

A spot inspection upon prior notice to all the parties 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 legal representation dated 11th April, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

As Bally Municipality has already detected unauthorized construction, accordingly, the Officer-in-Charge of the Bally Police Station is directed to ensure that construction in any manner whatsoever is not carried on at premises no. 42, Sirkhel Para Lane, P.O. and P.S.-Bally, Howrah-711201.

The private respondent nos. 5, 6 and 7 are restrained from transferring, alienating and/or handing over possession of the 5th and the 6th floors of the subject premises which have been constructed illegally without any sanction.

Instruction forwarded by the Bally Municipality 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.)