

28
09.10.2023
A.G.M.

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

W.P.A 16769 of 2023

**Kaustabh Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Subhendu Banerjee
...For the Petitioner.**

**Mr. Avijit Sarkar
Mr. Suman Singh
...For the State.**

**Mr. Sufi Kamal
Ms. Shireen Hossain
...For the Respondent No. 5.**

**Mr. Gazi Faruque Hossain
Ms. Priyanka Mondal
... For the respondent no. 6.**

Leave granted to the learned advocate appearing for the respondent no. 6 to file vakalatnama in the department by day after tomorrow.

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

The grievance of the petitioner is that the private respondent is raising construction without maintaining the mandatory side open spaces.

Objection filed before the Gram Panchayat is pending consideration.

Learned advocate representing the private respondent submits, upon instruction that, the construction is being made in accordance with the plan sanctioned.

Learned advocate representing the Panchayat authority submits, upon instruction that, the Board has taken charge on 21st August, 2023 and necessary steps shall be taken to consider the objection filed by the petitioner.

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.4 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 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 representation dated 12th June, 2023 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.)