

24-01-2023
Item No.161 ML
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.18002 of 2021
Pratima Roy & Ors.
-vs-
State of West Bengal & Ors.

None	...for the petitioners
Mr. Raja Saha Ms. Rupsha Chakraborty	...for the State
Mr. Gopal Chandra Ghosh Ms. Jayeta K Mitra	...for respondent no.8

None represents the petitioner at the time of call.

On perusal of the writ petition and the documents annexed thereto and after hearing the learned advocate appearing for the State and the eighth respondent, it appears that the petitioners complain of unauthorised construction at the instance of the private respondent. The petitioners alleges that the objection filed by them before the Naihati Municipality has not been taken up for consideration till date.

Learned advocate representing the eighth respondent denies the allegation of the petitioners. It has been submitted that the construction has been made in accordance with the plan sanctioned by the Municipality and the said plan is valid till November 2023.

As it appears that the objection filed by the petitioner is pending consideration before the Naihati Municipality, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.2 being Naihati 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.

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 March 10, 2021 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]