

Item No.25

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

11.12.2023
Ct-24

WPA 17145 of 2023
Safiuddin Molla

v.

The State of West Bengal & Ors.

Mr. Shahan Shah
Md. Shamim Halder
... for the petitioner.

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

Mr. Manoj Kumar Mondal
... for the State.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent at premises no. Q-619, Golam Rob Lane, Ward No. 139, Borough-XV of the Kolkata Municipal Corporation.

The grievance of the petitioner is that the objection filed against such unauthorized construction has not been disposed of till date.

None represents the private respondent.

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

A report has been filed by the engineers of the Kolkata Municipal Corporation wherefrom it appears that departmental inspection was conducted and it was found that a single storied building with raised column over the roof has been made without any sanction from

the Corporation. A stop work notice has been issued with intimation to the police station.

In view of the order that I propose to pass, none of the non-appearing respondents would be prejudiced, if the writ petition is disposed in the following manner.

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 Executive Engineer(C), Building, Borough-XV 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 June 7, 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.

Sh

(Amrita Sinha, J.)